# THE HISTORY OF THE INQUISITION

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# INQUISITION.

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Translated into *English*

By *SAMUEL CHANDLER.*

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## VOL. II.

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To which is prefixed,

A large INTRODUCTION concerning the Rise and Progress of PERSECUTION, and the real and pretended Causes of it.

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*Their tender Mercies are Cruelty.*
*Their Throat is an open Sepulchre; with their Tongues they have used Deceit; the Poison of Asps is under their Lips: Whose Mouth is full of Cursing and Bitterness.*

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# THE HISTORY OF THE INQUISITION.

## VOL. II.

## BOOK III.

### Crimes belonging to the Tribunal of the INQUISITION.

### CHAP. I.

*Of* HERETICKS *and their Puniſhments. And firſt of ſuch as are* ECCLESIASTICAL.

HERESY is the Crime properly ſubject to the Trial of the Inquiſitors. For they are Inquiſitors of heretical Pravity; and their whole Office conſiſts in the Extirpation of Hereſy. But there are various Offences relating to Hereſy, according to the Statutes of the Church of *Rome*, and one Offence is more grievous than another. For ſome are manifeſt Hereticks, others concealed. Some affirmative, others negative. Some impenitent, others penitent. Some Arch-hereticks, others Believers of Hereticks; ſome

Receivers, others Defenders, others Favourers of Hereticks. Some are Hinderers of the Office of the Inquisition, others suspected of Heresy, others defamed as Hereticks, and others relapsed. Again, there are some who by committing certain other Crimes incur the Suspicion of Heresy, or, who committing certain Crimes, punishable by other Tribunals, yet are answerable to the Tribunal of the Inquisition, because of some heretical Word or Action mixed with those Crimes: So that it must be particularly declared, what the respective Crimes are, and what the Punishments annexed to them. And finally the *Jews*, in some certain Cases, and the Revolters to Judaism, as also Witches and Sorcerers, as far as they are said to deny the Faith, are to be brought before the Tribunal of the Inquisitors. Of these severally in their Order.

## And first of HERETICKS.

Eymerick, *p. 2. qu. 32.* Three Things are required to make any one truly and properly an Heretick. First, That he hath professed the Catholick Faith, *i. e.* hath been baptised. Secondly, That he err in his Understanding in Matters relating to the Faith. What these Things are the Papists inquire; but they are reduced at last to this, that all Points determined by a General Council, or the Pope, as necessary to be believed, or injoined as an Apostolick Tradition, are Matters of Faith. And this is said to make a Man an Heretick initially, and as to his Disposition. The Third is Obstinacy of Will. This is discovered two ways. The first is, when any one is called before a Judge of the Faith, and by him informed that the Opinion he holds is contrary to an Article of Faith, or contrary to the Determination of the Church made concerning the Faith, and yet nevertheless persists in his Error. The other is, when any Person, after the Discovery of his Error, will not renounce it at the Command of a Judge of the Faith, by abjuring it, and giving suitable Satisfaction.

This Crime is so widely extended by the Doctors of the Church of *Rome*, that they esteem as Heresy every Thing that is contrary to any received Opinion in the Church, although it be merely Philosophical, and hath no Foundation in the sacred Scripture. Such is that Assertion of *Bernard Comensis*, in his *Candle of the Inquisitors* in the Word *Heresy*, § 14. *He is an Heretick, who says, defends, or obstinately maintains, that the rational or intellectual Soul is not the Form of the human Body of it self, and essentially; as appears in the* Clementines, *Unica de Summa Trinit. §. Porro.*

The Punishments ordained against Hereticks are many, and most grievous, because the Church of *Rome* looks upon Heresy to be a much more heinous Crime than any other whatsoever. These Punishments are divided by some into Ecclesiastical and Civil. Others say that some Punishments are inflicted on Hereticks, *a jure*, and *ipso facto*; and that others are inflicted by Men. *Conrad Brunus* comprehends, and particularly specifies all of them, under this threefold Division. Of human Punishments ordained against Hereticks, some are Ecclesiastical or Canonical, which the sacred Canons have appointed, such as Excommunication, Deprivation of Ecclesiastical Burial, Dignities, Benefices

*De Haret. l. 5. c. 3. § 1.*

and

and Eccleſiaſtical Offices. Some are Civil, which the Civil Laws have enacted, ſuch as the depriving Men of the Privileges and Benefits of Law, pecuniary Mulcts, Baniſhment, Death, and the Bann. Some are mixed, ordained both by the ſacred Canons, and the imperial Laws; ſuch as Confiſcation of Goods, abſolving Subjects from their Allegiance, Infamy, and the Eccleſiaſtical Interdict. I chooſe rather to diſtinguiſh Puniſhments only into Eccleſiaſtical and Civil. By Eccleſiaſtical, I mean thoſe which are inflicted on any one conſidered as a Member of the Church, and which are ſuppoſed to derive on him ſome ſpiritual Evil. By Civil, I underſtand ſuch Puniſhments as refer to the Body or Eſtate of any one, and are inflicted on him as a Member of Civil Society, whether they are appointed by the Civil or Canon Law, or by both.

*Simancas* gives a merry Reaſon why they puniſh Hereticks ſo ſeverely, inſtead of convincing them by Scripture of their Error and falſe Doctrine. *Weſtit. tit. 59. §. 11.* *Catbol. Inſtit. tit. 59.* *muſt not contend with Hereticks by Scripture, becauſe by that our Victory will be uncertain and doubtful.* So that 'tis no wonder they ſhould defend Doctrines, which have no Foundation in Scripture, by Force, and dreadful Puniſhments, and extort that Confeſſion by the Fear of Puniſhment, which they can never perſuade the Mind of the Truth of, as being deſtitute of the Weight of Reaſon, and the clear Teſtimony of Scripture. But 'tis time to return to our Subject.

The firſt Puniſhment ordained againſt Hereticks by the Canon Law, is Excommunication. This was in uſe amongſt the Chriſtians in former Times. For ever ſince that Councils were held for the Extirpation of Hereſy, the Cuſtom of excommunicating Hereticks was introduced. By this Excommunication Hereticks were driven from the Sacraments, deprived of the common Suffrages of the Church, and expelled the Company of the Pious and Faithful. Thus the Synod of *Vernon* determined in the Year 755. Chap. 9. *That ye may underſtand the Nature of this Excommunication, he muſt not enter into the Church, nor eat and drink with any Chriſtian; let none receive his Gifts, nor offer him a Kiſs, nor join with him in Prayer, nor ſalute him.* *Cap. Cum. Chriſtus. Sicut ait, ad obolendam.* *Excommunicamus. de haret.* *Du Cange. In voce Excom.*

The Ceremony of Excommunication is thus: When the Biſhop pronounces the Anathema, twelve Prieſts muſt ſtand round him, and hold lighted Candles in their Hands, which they muſt throw down on the Ground, and tread under their Feet at the Concluſion of the Anathema, or Excommunication. Then a Letter is ſent about to the Pariſhes, containing the Names of the excommunicated Perſons, and the Reaſon of their Sentence. *Brunus, l. 5. c. 3. §. 6.*

Excommunication is either the greater or the leſs. Of both the Synod of *Nimes* hath thus decreed, *An.* 1284. The greater Excommunication is, *when the Prelate ſays*, I excommunicate thee. *This Excommunication ſeparates a Perſon from the Communion of the faithful, and the Participation and Perception of the Sacraments.* The leſſer Excommunication is, *when any one communicates with a Perſon under the greater Excommunication; by thus partaking with him he is removed from the Perception of the Sacraments, ſo that he ought not to receive the Euchariſt or other Sacraments, till he is abſolved.* An Interdict is, *when the Prelate ſays*, I interdict thee; *or*, I put thee under the Eccleſiaſtical Interdict; *or*, I interdict or prohibit thee from entring the Church. *Such an interdicted Perſon, and he*

*who is under the greater Excommunication muſt not enter the Church, nor ſtand near it, when divine Service is performing, as long as they are under the Sentence.*

An Interdict is a general Excommunication, pronounced againſt a Province, a *Town*, or *City*, Cap. 17. *de verbor. Signif.* *Brunus* deſcribes it as applied to Eccleſiaſtical Affairs.

Brunus, *l.* 5. *c.* 16. §. 10. " An Eccleſiaſtical Interdict is one of the principal Eccleſiaſtical Cenſures, " as it *forbids* a Perſon all divine Services, which is it ſelf the greateſt Puniſhment, " as it deprives a Man of the Benefit of divine Services and Sacraments, and affects the Soul, even as a Civil Interdict doth the Body. It is " pronounced ſometimes againſt a Perſon, *viz.* a Community or *Chapter*. " Sometimes againſt a Place, *viz.* a Church or City. And there is this Difference: When a Community is interdicted, the Clergy may perform divine Service with a loud Voice, the Gates being ſhut, and the Bells rung, " provided the excommunicate and interdicted Perſons be excluded, which " they can't do in an interdicted Place. Farther, when a Community is put " under an Interdict, we are not to underſtand it of the Community as a Body, " but of ſome particular interdicted Perſons; becauſe the Matter of the Interdict is proportioned not to the Body, but the ſeveral Members. And yet an " Interdict may be pronounced againſt the whole Community, as a Puniſhment " of the Crime of the Governors of the Univerſity, or Body, in which " caſe both the Guilty and Innocent are ſubject to the Eccleſiaſtical Interdict, " eſpecially thoſe who were preſent, and knew the Faults of the Governors, " without oppoſing them. In this Caſe the Truth is, that all the Citizens, " even the Ignorant and Innocent, are included in the Interdict.

Q. Du Cange *in voce* Interdict. The Form of the Interdict we have in the Coun[illegible] *Limoges*, *An.* 1301. Seſſion the Second. *Unleſs they come to Terms of Peace, [illegible] the Country of the* Limoſin *be put under a publick Excommunication, ſo that no Perſon, except a Clergyman, or poor Beggar, or Stranger, or Infant from two Years old and under, be permitted Burial, in the whole* Limoſin, *or permitted to be carried to Burial in any other Biſhoprick. Let divine Service be privately performed in all the Churches, and Baptiſm given to thoſe who deſire it. About the third Hour, let the Bells ring in the Churches, and all proſtrate pour out their Prayers, upon account of the Tribulation, and for Peace. Let Penance and the* Viaticum *be granted in the Article of Death. Let the Altars of all the Churches be ſtripped, as in* Eaſter *Eve, and the Croſſes and Ornaments be taken away, as a Token of Mourning and Sadneſs to all. Let the Altars be adorned at thoſe Maſſes only, which any of the Prieſts ſhall ſay, the Church Doors being ſhut; and when the Maſſes are done, let them be ſtript again. Let no one marry during the Time of the Excommunication. Let no one give to another a Kiſs. Let no one of the Clergy or Laity, no Inhabitant, or Traveller, eat Fleſh or other Meat, than ſuch as is lawful to eat in Lent, in the whole Country of the* Limoſin. *Let no Layman or Clergyman be trimmed or ſhaved, till the cenſured Princes, the Heads of the People, abſolutely obey the holy Council.* Some Synods held at *Landaff*, recited in the *Engliſh* Councils, after the Eccleſiaſtical Laws of King *Alfred*, declare, that in the Time of the Interdicts the Altars were uncovered, the Croſſes and Relicts of the Saints laid upon the Ground, and the Bells turned upward.

There

There is another Form of the Interdict extant in a Manuscript of the Church of *Beauvis*, amongst the Laws of *Charles* the Great. *In the Name of Christ, I* Hildegarius, *Bishop of* Beauvis, *by the Authority of the Father, the Son, and the Holy Ghost, and by the Authority of St.* Peter, *Prince of the Apostles, and by our own Authority, do excommunicate and interdict this Church, and all the Chapels belonging to it, that no one may have Power from Almighty God, or from St.* Peter, *the Prince of the Apostles, from this Day to sing or hear Mass, or perform any divine Office, or receive the Tythe of Almighty God, without our special Leave. And whoever shall presume, contrary to these Interdicts, either to sing or hear Mass, or to perform divine Service in any Place, or to receive the Tythe of Almighty God, let him be excommunicated and accursed by the Authority of the omnipotent God the Father, the Son, and the Holy Ghost, and of St.* Peter, *and all the Saints, and separated from the Society of Christians, and from the Doors of our holy Mother Church, where there is Remission of Sins, and let him be* Anathema Maranatha, *to the End of the World, with the Devils in Hell. So let it be, once, twice, thrice,* Amen. *Boniface* VIII. ordained, that notwithstanding the Ecclesiastical Interdict, divine Service might be performed in the four Festivals, to which *Urban* VI. added the Festival of *Corpus Christi*, as may be found in the great *Belgick* Chronicle, *An.* 1389.

[Thus *Du Cange* describes the Interdict. But the *Venetian* Divines, in their Treatise concerning the Interdict of Pope *Paul* V. *An.* 1606. *Propos.* 19. affirm that the Interdict is a new Censure in the Church; and they thus prove it: Because there is no mention of an Interdict, either as to the Word or Meaning, in the holy Scripture, or any one of the antient Fathers, or in the Collection of Canons by *Curcard* or *Gratian*, who wrote about the Year 1150. And therefore it did not begin till after his Time, because *Alexander* III. first mentions it in the Decretals, in a certain Letter of his to the *English* Prelates, *An.* 1170. They add,

In the Beginning, when the Interdict took place, all divine Services were prohibited, except the Baptism of Children, and the Penance of the dying. *Alexander* III. Capit. *Non est nobis.* respons. An. 1170. About the Year 1200. *Innocent* III. allowed of Preaching and the Sacrament of Confirmation. Capit. *responso.* de Sent. Excom. About the Year 1230. *Gregory* IX. granted, that Mass should be celebrated once every Week, but without the ringing of the Bell, with a low Voice, and the Gates shut, in order to consecrate the most holy Sacrament for dying Penitents. Cap. *Permittimus.* de Sent. Excom. About the Year 1245. *Innocent* IV. permitted the Sacrament of Penance to be administred to the Cross-bearers, and Strangers, and that two or three of the Clergy might celebrate divine Service with a low Voice. Cap. *Quod.* in Text. de Pœn. About the Year 1300. *Boniface* VIII. decreed that Penance should not only be administred to the Sick, but to such as were well, and every Day, and that divine Service should be performed with a low Voice, the Gates shut, and without ringing the Bells, except on the Feasts of the *Nativity*, *Easter*, *Whitsunday*, and the *Assumption of the Blessed Virgin*, when it should be celebrated with open Gates, and the ringing of the Bells. c. *Alma Mater.* de Sent. Excom. in 6.

To

To this they ſubjoin the Effects of an Interdict, to ſhew that if this Cenſure be not uſed with ſome Difference, it will deſtroy the Church. It is worth while juſt to recite theſe Effects in the Words of the aforementioned Place, *Alma Mater*. and from the Extravagant *Provide*. *Becauſe*, ſays he, *by ſuch ſort of Statutes the Indevotion of the People is forgotten, Hereſies ſpring up, an infinite Number of Dangers ariſe to Souls, and the Church, without her Fault, loſes the Obedience due to her*. The Words of the Extravagant are theſe: *Prayers for the Dead, eſpecially by the frequent Oblation of the ſalutary Hoſt, are either entirely prevented, or greatly leſſened; young Perſons and Children more ſeldom partake of the Sacraments, and are thereby leſs inflamed and confirmed in the Faith, the Devotion of the Faithful grows cool, Hereſies ſpring up, and the Dangers of Souls are encreaſed.* The Gloſs upon the ſame Chapter *Alma Mater* ſays, That after the Removal of the Interdict from any Place, Perſons of thirty or forty Years old, who had never ſeen the Maſs celebrated, laughed at the Prieſts as they were celebrating it. *Sotus* a famous Doctor ſays, *That though an Interdict on one hand tends to terrify the Excommunicate; yet on the other it endangers divine Service, eſpecially if it laſts for any conſiderable while; for that not only the Laity loſe their Affection and Regard for divine Services from not being accuſtomed to frequent them; but even the Clergy themſelves grow more remiſs and indolent in performing them: Upon which Account Religion it ſelf ſuffers great Loſs, and the Manners of the People grow wild and ſavage.* Thus far the *Venetian* Divines.]

*Diſtinct.* 22. *Qu.* 3. *Artic.* 1.

Heretofore they uſed, three times a Year, ſolemnly to anathematiſe Heretick of every Sect, *viz.* in the Day of *Cæna Domini*, the Aſcenſion, when Chriſt prayed for all the Faithful, and in the Feaſt of the Dedication of the Churches of St. *Peter* and *Paul*; to denote that the excommunicate Perſon was deprived of the Sacrament of the Supper, that he could not partake of the Prayers of the Church, and that he was expelled the Church, ſo that he could not pray with the reſt of the Faithful. To this Cuſtom ſucceeded the Proceſs of the Bull, called *In cæna Domini*, which was read publickly, and with a loud Voice, every Year, on *Holy Thurſday*, in the Morning, by the laſt Cardinal Deacon, in the Preſence of the Pope, and the reſt of the Cardinals and Biſhops, by which all Hereticks are anathematized. When the reading of it is finiſhed, the Pope takes a little lighted Torch, and throws it into the Street, as a Token of the Thunder ſent againſt the Excommunicate. The Uſe of this Bull doth not ſeem very antient; for neither *Thomas*, nor *Eymericus*, nor other antient Writers mention it. But it ſeems to have begun in the Time of *Martin* V. about the Year 1420. when the *Bohemian* Doctrine was damned by the Council of *Conſtance*. *Paul* II. and *Sixtus* IV. make mention of it in ſome Reſcripts, beginning, *Etſi dominici Gregis*. Afterwards *Leo* X. encreaſed it againſt *Luther*, as did *Paul* III. and the other *Roman* Pontiffs, till at length, *An.* 1616. it was brought into this Form by *Paul* V.

Pegna *p.* 2. *Com.* 22.

Hierolex in voce *Proceſſus.*

*The paſtoral Diligence and Care of the* Roman *Pontiff is continually employed, according to the Duty of his Office, in procuring all Peace and Tranquility for the Chriſtian Republick; and eſpecially ſhines forth in maintaining and preſerving the Unity and Integrity of the Catholick Faith, without which 'tis impoſſible to pleaſe God*; viz. that

*that the Faithful of Christ may not be as little Children, tossed, and carried about with every Wind of Doctrine, by the Wickedness of Men who go about to deceive; but may all meet in the Unity of the Faith, and Acknowledgment of the Son of God, and grow into a perfect Man, and may not hurt one another in the Fellowship and Communion of this Life, nor give Occasion of Offence to each other, but rather being joined in the Bond of Charity, as Members of one Body under Christ the Head, and his Vicar upon Earth the* Roman *Pontiff, the Successor of the most blessed* Peter, *from whom the Unity of the whole Church flows, may encrease unto Edification, and may thus, with the Assistance of divine Grace, so enjoy the Quiet of the present Life, as that they may obtain the Blessedness of the future. For which Causes the* Roman *Pontiffs, our Predecessors, have, on this Day, celebrated for the anniversary Commemoration of the Lord's Supper, been used solemnly to exercise the spiritual Sword of Ecclesiastical Discipline, and the salutary Arms of Justice by the Ministry of the Chief Apostolate, to the Glory of God, and the Salvation of Souls.*

*We therefore to whom nothing is more desirable, than under God, to defend inviolable the Integrity of the Faith, the publick Peace and Justice, following this antient and solemn Custom,*

1. *Do excommunicate and anathematize, on the Part of Almighty God, the Father, Son, and holy Spirit, and also by Authority of the blessed Apostles* Peter *and* Paul, *and by our own, all* Hussites, Wickleffites, Lutherans, Zuinglians, Calvinists, Hugonots, Anabaptists, Trinitarians, *and Apostates from the Christian Faith, and all and singular other Hereticks, by whatever Name distinguished, or to whatever Sect they belong, as also their Believers, Receivers, Favourers, and in general all their Defenders, and such who without our Authority, and the Authority of the Apostolick See, do knowingly read, or retain, or print their Books containing Heresy, or treating of Religion, or who in any manner defend them, or upon any account, publickly or privately, upon any Pretence or Colour; as also all Schismaticks, and those who obstinately withdraw themselves or depart from our Obedience, or that of the* Roman *Pontiff for the Time being.*

2. *Likewise we excommunicate and anathematise all and singular Persons, of every State, Degree, and Condition, and interdict all such Universities, Colleges, and Chapters, of whatsoever Name, who appeal from our Appointments and Commands, and those of the* Roman *Pontiffs for the Time being, to an universal future Council; as also all those by whose Assistance, Counsel or Favour such Appeal shall have been made.*

3. *Likewise we excommunicate and anathematise all Pirates, Corsaires and Robbers, who infest our Sea, especially from* Monte Argentaro *to* Terracina, *and all their Favourers, Receivers and Defenders.*

4. *Likewise we excommunicate and anathematise all and singular Persons whatsoever, who, when the Ships of any Christians shall be overset by a Storm, or by any Means suffer Shipwrack, shall take away from them their Effects of any Kind, whether they find them in the said Ships, or thrown into the Sea, or cast on the Shore, as well in our* Tuscan *and* Adriatick *Seas, as in other Regions and Shores of any other Sea whatsoever; so that they shall not be excused upon Account of any Privilege, Custom, or Possession of Time immemorial, or any other Pretence whatsoever.*

5. *Like-*

5. *Likewiſe we excommunicate and anathematiſe all, who either lay or encreaſe Taxes or Gabels in their Lands, except in ſuch Caſes as are permitted them by Law, or by the ſpecial Leave of the Apoſtolick See, or who cauſe ſuch as are prohibited to be laid or encreaſed.*

6. *Likewiſe we excommunicate and anathematiſe all Forgers of Apoſtolick Letters, even in Form of Brief, and Supplications, concerning Grace or Juſtice, ſigned by the* Roman *Pontiff, or the Vice-chancellors of the Holy* Roman *Church, or their Vicegerents, or by the Command of the ſaid* Roman *Pontiff: As alſo ſuch who counterfeit Apoſtolick Letters, even in Form of Brief; as alſo ſuch who falſely ſign any Supplications under the Name of the* Roman *Pontiff, or his Vice-chancellor, or their Vicegerents.*

7. *Likewiſe we excommunicate and anathematiſe all thoſe who carry or ſend over to the* Saracens, Turks, *and other Enemies and Adverſaries of the Chriſtian Name, and ſuch as are expreſsly, or by Name declared Hereticks by our Sentence, or that of this Holy See, Horſes, Arms, Iron, Bars of Iron, Tin, Steel, and all other Kinds of Metals, and warlike Inſtruments, Timbers, Hemp, Ropes, made either of Hemp or any other Matter, and the Materials themſelves, and all other ſuch ſort of Things, by which they may injure Chriſtians and Catholicks; and alſo all thoſe who either by themſelves or others, give Information to the Turks and Enemies of the Chriſtian Religion, or to Hereticks, of the Affairs concerning the State of the Chriſtian Commonwealth, to the Prejudice and Deſtruction of Chriſtians, and the Detriment of the Catholick Religion, and all ſuch who in this Affair any ways afford them Help, Counſel, and Favour, all Privileges whatſoever hitherto granted by us and the aforeſaid See to any Perſons whatſoever, Princes, and Republicks, not making expreſs Mention of ſuch Prohibition, to the contrary notwithſtanding.*

8. *Likewiſe we excommunicate and anathematiſe, all who hinder or attack thoſe who bring Proviſions, or other Things neceſſary for the Uſe of the Court of* Rome; *as alſo thoſe who prohibit, hinder, and prevent ſuch Things being brought or carried to the ſaid Court of* Rome, *or who defend thoſe who do theſe Things, either by themſelves, or others, of whatſoever Order, Preheminence, Condition and State they may be, even though they ſhould be rendred Illuſtrious by the Pontifical or Regal, or any other Eccleſiaſtical or worldly Dignity whatſoever.*

9. *Likewiſe we excommunicate and anathematiſe all thoſe who, either themſelves, or by others, kill, mutilate, ſpoil, apprehend or detain any Perſons coming to the Apoſtolick See, or going from it; as alſo all thoſe who not having the ordinary Juriſdiction, or that delegated by us and our Judges, ſhall raſhly claim it to themſelves, and ſhall preſume to commit ſuch Things againſt thoſe who abide in the ſame Court.*

10. *Likewiſe we excommunicate and anathematiſe all ſuch who kill, mutilate, wound, detain, apprehend or rob ſuch as are coming to* Rome, *or Pilgrims going to the City upon account of Devotion or Pilgrimage, and ſtaying in it, or going from it, or who in theſe Things give them Aſſiſtance, Counſel or Favour.*

11. *Likewiſe we excommunicate and anathematiſe all ſuch who kill, mutilate, wound, ſtrike, apprehend, impriſon, detain, or in an hoſtile Manner purſue the Cardinals of the Holy* Roman *Church, the Patriarchs, Archbiſhops, Biſhops, Legates or Nuncios of the Apoſtolick See, or who eject them from their Dioceſes, Territories,*

*tories, Lands or Dominions; as also those who command or confirm these Things, and grant their Assistance, Counsel or Favour in them.*

12. *Likewise we excommunicate and anathematise all those, who kill, or any ways strike, or deprive of their Effects, either by themselves or others, any Ecclesiastical Persons whatsoever, or Seculars coming to the Court of* Rome *upon their Causes and Affairs, and prosecuting them in the said Court, or such who procure and manage their Affairs, Advocates, Procurators, and Agents, or Auditors and Judges in the aforesaid Causes and Affairs, deputed upon Occasion of the said Causes and Affairs; as also all such who by themselves or others, directly or indirectly, shall dare to commit, perform or procure such Crimes, or shall grant Assistance, Counsel or Favour in them, of whatsoever Prehominence and Dignity they may be.*

13. *Likewise we excommunicate and anathematise all as well Ecclesiastical as Secular, of whatsoever Dignity, who, under the Pretence of a frivolous Appeal from the Burthen or future Execution of the Apostolick Letters, even in Form of Brief, concerning as well Grace as Justice, and of Citations, Inhibitions, Sequesters, Monitories, executorial Processes and other Decrees, proceeding, or which for a Time or otherwise may have proceeded from us, and the aforesaid See, or Legates, Nuncio's, Presidents, Auditors of our Palace, and of the Apostolick Chamber, Commissaries, and other Judges, and Apostolick Delegates, shall have Recourse to the Secular Courts, and Lay Power, and shall suffer such Appeals from it, though at the Instance of the Procurator or Advocates of the Treasury, and shall cause such Letters, Citations, Inhibitions, Sequesters, Monitories, and other the aforesaid to be taken and retained, or who hinder and prohibit, either simply, or without their Pleasure, Consent or Examination, these Things to be put in Execution, or the Attornies or Notaries employed in the Execution of such Letters and Processes from making such Instruments or Acts, or when made from delivering them to the Party concerned, or who apprehend, strike, wound, imprison, detain, banish from Cities, Places and Kingdoms, deprive of their Goods, terrify, extort Money from, or threaten by themselves, or any other or others, publickly or privately the said Parties or their Agents, Kindred, Relations, Acquaintance, Notaries, Executors, or Under-Executors of the said Letters, Citations, Monitories, and other the aforesaid, or who shall presume to forbid, ordain and command directly or indirectly any other Person whatsoever, either in general or particular, that they do not apply or have Recourse to the Court of* Rome *in pursuing the said Affairs, or obtaining Graces or Letters, or soliciting such Graces and Letters from the said See, or using them when obtained, or who shall themselves, or by their Notaries, or Attornies, or any other Ways dare to keep them.*

14. *Likewise we excommunicate and anathematise all and singular Persons whatsoever, who themselves or by others, by their own proper Authority, and in Fact, under the Pretence of any Apostolick Executions, or other Graces and Letters, remove Grants of Tythes, or other spiritual Causes, or annexed to spiritual, from our Auditors, and Commissaries, and other Ecclesiastical Judges, or who hinder the Course and Hearing of them, or Persons, Chapters, Convents, Colleges, who are willing to prosecute the said Causes, and who interpose themselves as Judges in the Cognisance of them, or who by Statute or otherwise compel the acting Parties who have, or do cause them to be tried, to revoke, or cause to be revoked Citations or Inhibitions, or other*

*Letters decreed therein, and to cauſe, or conſent that thoſe Perſons, againſt whom ſuch Inhibitions have proceeded, ſhall be abſolved from the Cenſures or Penalties contained in them; or who in any manner obſtruct them in the Execution of Apoſtolick Letters, or Executorials, or Proceſſes, or aforeſaid Decrees, or who give their Favour, Counſel, or Aſſent towards it, even though they ſhould pretend it was to prevent Violence, or under any other Pretences whatſoever; yea, though they ſhould pretend that 'tis only till they have intreated, or cauſed Intreaty to be made for our Information, unleſs they legally proſecute ſuch Supplications before us and the Apoſtolick See; even though they who commit ſuch Things ſhould be Preſidents of Chanceries, Councils, or Parliaments; Chancellors, Vice-Chancellors, Judges, the Counſellors ordinary or extraordinary, of any ſecular Princes whatſoever, even though they are illuſtrious for the Imperial, Regal, Ducal, or any other Dignity whatſoever; or whether they be Arch-Biſhops, Biſhops, Abbots, Commendatories or Vicars.*

15. *Or who by Virtue of any pretended Office, or at the Inſtance of any Party or other Perſons whatſoever, bring, or cauſe, or procure directly or indirectly, under any Colour whatſoever, to be brought, Eccleſiaſtical Perſons, Chapters, Convents, Colleges of any Churches, before them to their Tribunal, Audience, Chancery, Judges, or Parliament, contrary to the Diſpoſition of the Canon Law; or who ſhall make, ordain, or publiſh Statutes, Ordinations, Conſtitutions, Pragmaticks, or any other Decrees whatſoever, in general or particular, upon any Account, or under any Colour whatſoever, and even under Pretence of any Cuſtom or Privilege, or for any other Reaſon whatſoever, or who ſhall make uſe of them when made or ordained, by which the Eccleſiaſtical Liberty is taken away, or in any Degree hurt, or ſunk, or otherwiſe by any Means reſtrained, or whereby our Rights, or thoſe of the ſaid See, or any other Churches, are any Ways directly or indirectly, tacitly or expreſsly prejudiced.*

16. *All ſuch moreover, who, on this Account, in any manner directly or indirectly, hinder the Arch-Biſhops, Biſhops, and other ſuperior and inferior Prelates, and all other ordinary Eccleſiaſtical Judges whatſoever, by impriſoning or moleſting their Agents, Procurators, Familiars, or their Relations or Kindred, or others, ſo as to prevent their exerciſing their Eccleſiaſtical Juriſdictions againſt any Perſons whatſoever, according to what the Canons and ſacred Eccleſiaſtical Conſtitutions, and the Decrees of General Councils, and eſpecially the Council of* Trent, *ordain; and alſo thoſe who after the Sentences and Decrees of their Ordinaries, or any Perſons delegated by them, or who any other ways evading the Judgment of the Eccleſiaſtical Court apply themſelves to Chanceries, or any other ſecular Courts, and who procure from them Prohibitions or penal Commands to be decreed and executed againſt the Ordinaries and their aforeſaid Delegates; and thoſe alſo who decree and execute theſe Things, or give their Aſſiſtance, Counſel, Patronage or Favour therein.*

17. *Thoſe alſo who ſeize on the Juriſdictions, Profits, Returns, and Incomes belonging to us and the Apoſtolick See, and to any Eccleſiaſtical Perſons whatſoever, by reaſon of their Churches, Monaſteries, and other Eccleſiaſtical Benefices, or who upon any Occaſion or Cauſe ſequeſter them, without the expreſs Licence of the* Roman *Pontiff, or others who have a legal Power to do it.*

18. *Such alſo who lay any Impoſts, Tythes, Taxes, Duties, and other Burthens upon the Clergy, Prelates, and other Eccleſiaſtical Perſons, and upon their Effects, or*

*thoſe*

*those of their Churches, Monasteries, and other Ecclesiastical Benefices, or upon their Fruits, Returns, or such like Incomes, without the like special and express Leave of the* Roman *Pontiff*; *or who exact them by any other invented Methods whatsoever, or who receive them when laid, even from those who voluntarily give and grant them. Moreover all such who by themselves or others, directly or indirectly presume to do the aforesaid Things, or procure them to be done, or give their Assistance, Counsel or Favour in them, of whatsoever Preheminence, Dignities, Order, Condition or State they may be, even though they shine with the Imperial or Regal Dignity, or whether they are Princes, Dukes, Counts, Barons, or other Potentates whatsoever, or whether they be any ways Presidents, Counsellors, and Senators, in Kingdoms, Provinces, Cities and Countries, or adorned with any, even with the Pontifical Dignity, renewing hereby the Decrees made concerning these Matters by the sacred Canons, as well in the* Lateran *Council lately held, as in other general Councils, with also the Censures and Penalties contained therein.*

19. *Likewise we excommunicate and anathematise all Magistrates and Judges, Notaries, Scribes, Executors, Sub-executors, who in any manner concern themselves in capital or criminal Causes, against Ecclesiastical Persons, by processing, banning, apprehending them, or by pronouncing or executing Sentences against them, without the special specifick and express License of this holy Apostolick See, or who extend such License to Persons and Cases not expressed, or who otherwise rashly abuse it, even although such who do commit these Things should be Counsellors, Senators, Presidents, Chancellors, Vice-Chancellors, or called by any other Name whatsoever.*

20. *Likewise we excommunicate and anathematise all those who by themselves, or others, directly or indirectly, under any Title or Colour, shall presume to invade, destroy, seize and detain, in whole or in part, this holy City, the Kingdom of* Sicily, *the Isles of* Sardinia *and* Corsica, *the Countries on this Side* Faro, *the Patrimony of St.* Peter *in* Tuscany, *the Dutchy of* Spoleto, *the County of* Venaissin, *and the Maritime Provinces of the Marquisate of* Ancona, Massa, Treve, Romagna, Campania, *and their Countries and Places, and the Lands of the special Commission of the* Arnulphs, *and our Cities of* Bologna, Faenza, Rimini, Benevento, Perouse, Avignon, Civita Castellana, Todi, Ferrara, Comachio, *and other Cities, Countries and Places, or Rights belonging to the* Roman *Church, and subject mediately or immediately to the said* Roman *Church*; *as also presume to usurp, disturb, retain, or interrupt by any Methods the supream Jurisdiction in them actually belonging to us, and the said* Roman *Church*; *as also their Adherents, Favourers, and Defenders, or who any ways grant them Assistance, Counsel or Favour.*

*It being our Will that these our present Processes, and all and every Thing contained in these Letters, shall last, and have their entire Effects, as long as there shall be any such Processes made by us, or the* Roman *Pontiff for the Time being.*

*Furthermore, no one shall be absolved from the aforesaid Sentences by any other Person but the* Roman *Pontiff, except in the Article of Death, nor even then, unless he shall give Security to stand to the Commands of the Church, and make Satisfaction*; *notwithstanding any Pretences of Faculties or Indulgencies, granted and renewed, or to be granted or renewed by us, or the said See, and the Decrees of any Council, by Word or Letters, or any other Writing, general or special, to any Ecclesiastical Persons whatsoever,*

ſoever, Seculars, and the Regulars of all Orders, even of the Mendicant and Military ones, even to ſuch as enjoy the Epiſcopal, or any other greater Dignity, and to the Orders themſelves, and their Monaſteries, Convents, and Houſes, and Chapters, Colleges, Confraternities, Congregations, Hoſpitals, and holy Places; as alſo to any of the Laity, tho' Illuſtrious for the Imperial, Regal, or any other worldly Excellency.

But if any Perſons, contrary to the Tenor of theſe Preſents, ſhall actually preſume to grant the Benefit of Abſolution to ſuch who are entangled in this Excommunication and Anathema, we put them under Excommunication, intending to proceed more ſeverely againſt them, ſpiritually and temporally, as we ſhall know to be moſt convenient.

Declaring and proteſting, that no Manner of Abſolution, even to be made ſolemnly by us, ſhall comprehend, or be of any Benefit to the aforeſaid excommunicate Perſons, contained under theſe Preſents, unleſs they ſhall firſt abſtain from the Premiſſes, with the Purpoſe of not committing ſuch Things for the future; or to thoſe who have made any Statutes, as aforeſaid, againſt the Eccleſiaſtical Liberty, unleſs firſt they ſhall publickly revoke ſuch Statutes, Ordinations, Conſtitutions, Pragmaticks and Decrees, and ſhall eraſe and blot them out from their Archives, Records, or Books in which they are found to be regiſtred, and ſhall certify us concerning ſuch Revocation; moreover, that by ſuch Abſolution, or by any other contrary Acts, tacit or expreſſed, or by our Patience and Forbearance, or that of our Succeſſors, continued for any Time whatſoever, no Prejudice can or ought to affect the Apoſtolick See, and the Holy Roman Church, in all and ſingular the Premiſſes, and in any of its Rights, where and whenſoever purſued or to be purſued.

All Privileges, Indulgences, Grants and Letters Apoſtolick, general or ſpecial, to the aforeſaid, or to any one of them, or to any others of any Order, State, or Condition, Dignity or Prehemineence, altho' as before they may enjoy the Pontifical, Imperial, Regal, or any Eccleſiaſtical and worldly Dignity; or to their Kingdoms, Provinces, Cities, or Places, granted by the aforeſaid See, upon any Account, even by way of Contract, or Reward, and under any other Form and Tenor, and with any Clauſes, even the Derogatories of Derogatories, even tho' they contain that they may not be excommunicated, anathematiſed, or interdicted, by Letters Apoſtolick not making full and expreſs Mention, Word for Word, of ſuch Privileges, Indulgencies, and Grants, and of their Orders, Places, proper Names, Surnames and Dignities; as alſo all Cuſtoms, even Immemorial, and Preſcriptions the longeſt that can be, and all other Obſervances whatſoever, written or not written, by Virtue of which they may be able to help or defend themſelves, ſo as to exclude themſelves from being concerned in theſe our Proceſſes and Sentences, to the contrary notwithſtanding.

All which Things, as to this Affair, and the Tenors of all of them, as tho' they were inſerted here to a Word, without the Omiſſion of any Thing, taking them as expreſſed in theſe Preſents, we entirely take away, and wholly revoke, and all other Things whatſoever to the contrary.

And that theſe our preſent Proceſſes may more eaſily come to the publick Knowledge of all, we will cauſe the Papers or Parchments containing theſe Proceſſes, to be fixed up in the City, on the Gates of the Church of St. John Lateran, and the Cathedral Church

*Church of the Prince of the Apoſtles, that they whom ſuch Proceſſes concern, may be able to pretend no Excuſe, or alledge Ignorance, that they had not ſeen them or known them; ſince it is not probable, that that ſhould remain unknown, which is thus openly publiſhed to all. Moreover, that theſe Proceſſes, and preſent Letters, and all and ſingular the Matters contained in them may become yet more known, by being publiſhed in moſt Cities and Places, we by theſe Writings, order, and in Virtue of their holy Obedience, ſtrictly enjoin and command, all and ſingular, Patriarchs, Primates, Arch-Biſhops, Biſhops and Ordinaries of Places, and Prelates conſtituted every where, that either by themſelves, or any other or others, they ſolemnly publiſh, and propoſe, ſhew, and declare to the Minds of the Faithful of Chriſt, theſe our preſent Letters, after they have received them, or had the Knowledge of them, once every Year, or oftener, if they think fit, in their Churches, when the greateſt Number of People ſhall be met together for divine Worſhip.*

*Moreover, let the Patriarchs, Arch-Biſhops, Biſhops, and other Ordinaries of Places, and Prelates of Churches, and alſo all Rectors, and others having the Cure of Souls, and Presbyters, Seculars, and the Regulars of every Order, deputed by any Authority to hear Confeſſion of Sins, have by them a Tranſcript of theſe preſent Letters, and ſtudy diligently to read and underſtand them: It being our Will, that altogether the ſame Credit ſhall in Judgment, and out of it, be every where given to the Tranſcripts of theſe Preſents, even when printed, ſubſcribed with the Hand of a publick Notary, and marked with the Seal of the ordinary Judge of the* Roman *Court, or any other Perſon conſtituted in Eccleſiaſtical Dignity, as would be given to theſe Preſents, if they were themſelves exhibited and ſhewn. Let therefore no Man dare to infringe, or by any raſh Endeavour to contradict this Page of our Excommunication, Anathematization, Interdict, Innovation, Innodation, Declaration, Proteſtation, Sublation, Revocation, Commiſſion, Command and Will. If any one ſhall preſume to attempt this, let him know that he ſhall incur the Indignation of Almighty God, and his bleſſed Apoſtles,* Peter *and* Paul. *Given at St.* Peter's *in* Rome, *in the Year of the Incarnation of our Lord* MDCXVI. Apr. 22. *and Twelfth Year of our Pontificate.*

M. DATARIUS.

J. Bulgarius.

The Place † of the Seal.
Regiſtered in the Secretary of Briefs.
*S. de Urſinis.*]

This Excommunication infers other Puniſhments. For if an Heretick excommunicated hath any ſpiritual Juriſdiction, he forfeits it, nor can he validly perform thoſe Acts which require Juriſdiction, becauſe as this is given by the Church, the Church may reſume it. Hence all Things that are done by a Prieſt or Biſhop, without Permiſſion, are null, for the want of Juriſdiction. All Abſolutions, Cenſures, Sentences, Puniſhments, done by him, are void. Thus it is ſaid, that an excommunicated Perſon can't excommunicate, and that they are not to be looked on as excommunicate, who are excommunicated by Hereticks. Yet they ſo far retain the Powers belonging to their

Becani *Theol. Scholaſt. p.* 581.

Cap. *Audivimus* 24. *Qu.* 2.

Ibid. Cap. *aperte.* their Order, that they may validly do an Act which doth not require Jurisdiction, tho' not lawfully, becauſe they ſin in doing it; and they give this Reaſon, becauſe the Power of any Order conſiſts in an indelible Character. Hence they infer, that he who hath once legally received this Power, muſt always keep it, and that therefore he may validly do an act, which doth not require Juriſdiction, provided the due Matter, Form and Intention be preſerved, becauſe ſuch a Power hath its Force from the Inſtitution of Chriſt, which the Church cannot take away.

Eymer, *part.* 3. *Qu.* 113. Pegna, *Com* 162. Finally, Hereticks are deprived of all Eccleſiaſtical Benefices and Dignities. But there is this Difference between Hereticks, and their Favourers, Receivers and Defenders. Hereticks are *ipſo jure*, deprived of their Eccleſiaſtical Benefices from the Day of their committing their Crime, by a Reſcript of *Pius* V. beginning, *Cum ex Apoſtolatus*, in which he reſerves all Benefices of whatſoever ſort, and where-ever they are, vacant for the Crime of Hereſy committed by any one, to the Nomination and Appointment of the Apoſtolick See; whereas the Receivers, Favourers and Defenders of Hereticks are not *ipſo jure*, deprived of their Benefices, but muſt be deprived by Sentence. Cap. *Excom.* 1. §. *Credentes.* de hæret.

*Qu.* 114. *Com.* 163, 164. This is extended to their Poſterity, to the ſecond Generation by the Father's Side, and the firſt by the Mother's. Cap. *Quicunq;* §. *Heret.* de hæret. l. 6. and Cap. *Statutum* de hæret. lib. 6. So that if the Father be an Heretick, his Son and Daughter, and Grandſon by his Son, is judged incapable, but the Grandſon by the Daughter is not incapable, becauſe he is *reckoned* of his own Father's Family. If the Mother be an Heretick, the Son or Daughter only in the firſt Degree is incapable, and no farther. The Sons of thoſe alſo ſuſpected of Hereſy are incapable. But when the Receivers and Abettors of Hereticks and the like are dead, there can be no Proceſs againſt them, becauſe their Crime is extinguiſhed by Death. As for thoſe Children who accuſe their heretical Parents to the Judges of the Faith, the Puniſhments appointed by Law don't affect them.

Amongſt the Eccleſiaſtical Puniſhments is alſo reckoned, that no Offering is to be made for thoſe who die in Hereſy, nor are they to receive Chriſtian Burial. Cap. *Sicut ait B. Leo* de hæret. And this *Innocent* IV. eſpecially ordained by a perpetual Conſtitution, induced thereto by that ſolemn Sentence, *The Bodies of excommunicated Perſons ought not to be buried in the ſacred Places of the Faithful, becauſe as the Church had no Communion with them when alive, ſhe will have no Communion with them when dead.*

Bzovius, *a.* 1247. §. 4. *n.* 15.

CHAP.

## CHAP. II.

### *Of the Civil Puniſhments of* HERETICKS.

POlitical Puniſhments appointed by the Canon and Civil Laws againſt Hereticks, are various.

The firſt is what is commonly called, the Confiſcation of their Goods. Cap. *Vergentis in Senium.* de hæret. *We ordain that the Goods of Hereticks be confiſcated in all Countries ſubject to our temporal Juriſdiction, and in other Places alſo by the Powers and ſecular Princes of them; and if they ſhould prove negligent in this Affair, we will and command that they be compelled to it, by an Eccleſiaſtical Cenſure, without Benefit of Appeal.*

["This Confiſcation of Effects, *Lewis a Paramo* derives from the Example of God, who, not contented with the Sentence of Death pronounced againſt our firſt Parents, drove Man from the Place of his Delights, ſtript of all his Goods, wounded in Naturals, and ſpoil'd of thoſe Gifts that had been freely granted him, his original Integrity eſpecially being irreparably loſt, and adjudged him to hard and continual Labours, and out of his Hatred to ſo great a Wickedneſs, commanded the very Earth to bring forth Briars and Thorns. This Example, he ſaith, the moſt holy Tribunal of the Inquiſition follows, confiſcating by a juſt Proſcription the Goods of Hereticks, and depriving them of all their Effects and Fortunes. Neither ought this Inſtance to be accounted Foreign from the Caſe. For altho' the Confiſcation of Effects doth not regularly take place as to all other Crimes, tho' very heinous, nevertheleſs God, the firſt of the Inquiſitors, that in this deteſtable Crime of Hereſy he might give an Example to other delegated Inquiſitors, deprived our Parents of all their Effects, of the Poſſeſſion of their earthly Paradiſe, the Uſe of all the Fruits of it, and their Dominion over all the Creatures; for they did not only after this not obey our firſt Parents, but became Enemies to them. He alſo deprived their Children and Succeſſors of theſe Goods, *&c.* and this irrevocably. Nor can any one ever more come to ſuch a Place."] *L. 1. t. 2. c. 7. p. 45.* Moreover, the Goods of Hereticks are declared *ipſo jure*, confiſcate, in the Chap. *Cum ſecundum leges.* de hæret. l. 6. *We decree by the Advice of our Brethren, that the Goods of Hereticks, who offend more grievouſly, horribly and deteſtably than the before mentioned, be* ipſo jure, *confiſcate.*

This Law is of great Uſe in the Tribunal of the Inquiſition, and extreamly hard and ſevere upon the Criminals, their Relations and Heirs. For hence it is, that becauſe the Goods of Hereticks are *ipſo jure* confiſcate, they become forfeited from the very Day of their Crime, ſo that all Donations by Hereticks, altho' ſecretly made, are null and void. Even Portions given to Daughters, to ſupport the Burthens of Matrimony, tho' it be the Duty of a Father to portion them out, or given to ſuch as have taken on them the holy, Simanc. *tit.* 9. §. 21, &c.

holy Vow of a Monaſtick Life, are to be revoked and confiſcate. *Zanchinus* gives this Reaſon, *Cap.* 27. Becauſe his Goods are confiſcate from the very Day of his committing the Crime, and therefore he can have no right of Adminiſtration. But as for the Goods of ſuch, who can't purge themſelves, or are condemned for Contumacy, they are not forfeited but from the Day they are preſumed to be Hereticks, not from the Day that the Witneſſes declare them to have been Hereticks.

§. 9, &c. If any one gives a Legacy upon account of Death, and falls into Hereſy, and his Goods become confiſcate, the Legacy ſhall be recovered as void, and belongs to the Treaſury equally with all the other Goods of the Heretick. If an Husband bequeaths any Thing to his Wife, and his Memory be condemned for Hereſy after his Death, ſuch Donation ſhall be revoked, altho' his Legacies to others ſhall ſtand good. If any Thing be owing to an Heretick by a conditional Contract, it belongs to the Treaſury under that Condition, who muſt perform it, if they conveniently can. All the Goods of a Wife condemned for Hereſy and Impiety are forfeited, whether they be her Dowry, or any other Things beſides, which ſhe brought to her Husband, or ſuch Donations as the *Spaniards* call *Arrhæ* *; or ſuch Profits as belong to Wives by the Royal Laws. But the Huſband hath all his Actions good againſt the Treaſury. In like manner the Goods of an heretical Son gotten in War are confiſcated, becauſe that is the Son's private Property, in which the Father hath no Right. If he ſhall happen to have ſold any of his Goods, and the Money be in his Poſſeſſion, or any Thing equivalent, let it be reſtored to the orthodox Buyer, but if it be conſumed, it ſhall not be reſtored.

Zanch. *c.* 27.

Hence it is, that in every Sentence, the Time of the Perſon's falling into Hereſy is particularly expreſſed, and theſe or the like Words inſerted in it,

*c.* 41. *And by this our Sentence we declare, That all and ſingular his Goods were brought into our Treaſury from the ſaid Time of committing the Crime, and we do ſolemnly declare all and every of them to be confiſcated to the Treaſury of the Church of* Rome, *and our Office of the Inquiſition.*

A Perſon however muſt be declared an Heretick by the Judge, before his Goods are actually confiſcate. For as *Brunus* ſays, "The Law hath taken

*l.* 4. *c.* 12. §. 3. "Care, that if any one falls into an Hereſy already condemned, he ſhall neither be accounted or puniſhed as an Heretick, unleſs the Judge ſhall have "pronounced by his Sentence, that he is under the principal Condemnation. "So that the Hereticks do, *ipſo jure*, loſe all Property in their Eſtates, yet "they can't be confiſcated till after the declaratory Sentence is pronounced. "But however, this muſt be underſtood of ſuch a Crime as hath not been "certified to the Judge, either by Confeſſion, or legal Proof, or the Evidence "of the Thing it ſelf. For in notorious Crimes, which need no Declaration, "there ſeems no need of a declaratory Sentence, according to *Dominick*; "who thought it ſufficient, that if an Heretick did not appear to purge himſelf, by the Time fixed by the Judge, nor produce his Vindication, an

* *Arrhæ* are the Preſents given to any Women upon their being betrothed.

"Execution

" Execution might be granted againſt him, even without a declaratory Sen-
" tence, altho' there are ſome who inſiſt upon the Neceſſity of a declaratory
" Sentence even in notorious Crimes, and think that no Execution can be
" granted without it."

This Confiſcation of Goods is ſo rigidly inſiſted on, that there is no poſſible way of evading it, no not by the Alienation of a Man's Effects. The Treaſury of the Inquiſition devours all. Thus we read, that amongſt other Conditions of Peace preſcribed to *Raymond* Earl of *Tholouſe*, theſe were ſome.

N. 11. *Likewiſe we ordain, that whereas we have underſtood that the Believers of Hereticks, who intend to become perfect Hereticks, according to their deteſtable Life, ſell before-hand their Poſſeſſions and Inheritances, to defraud the Treaſury, or give or convey them, or by other Means alienate them, thoſe Contracts ſhall be all void, and the aforeſaid Goods ſhall be confiſcated, if all Circumſtances of the ſaid Contracts and Contractors conſidered, it ſhall appear to us that they were fraudulently made.* Bzovius, a. 1228. §. 6.

N. 12. *Furthermore, whereas we have underſtood that certain Hereticks remove to other Hereticks, under the Pretence of Merchandize or Travelling, that by ſuch Abſence they may defraud the Treaſury, and convey away their Goods, we ordain, that the Biſhop of the Place ſhall admoniſh and require their Relations, or ſuch who have their Goods in Poſſeſſion, to aſſign ſome juſt and reaſonable Cauſe of their continued Abſence, and if they do not aſſign ſuch Cauſe within a Year, to be computed from the Time of the Admonition given by ſuch Biſhop, that then, if ſuch abſent Perſons are otherwiſe ſuſpected, they ſhall be preſumed Hereticks, and all their Goods confiſcated. But if they, or their Heirs, or thoſe who poſſeſs their Goods, ſhall aſſign any juſt or probable Cauſe of ſuch their Abſence beyond the aforeſaid Time, either after or before the Confiſcation of their Goods, that then ſuch Goods may be lawfully left in their Poſſeſſion, or reſtored to them.*

The ſame Things as are preſcribed in theſe Conditions to the Earl of *Tholouſe*, are obſerved in *Italy*, by the Pope's Command, that by no Pretence of Alienation there may be any Poſſibility of eſcaping the Confiſcation of Goods, or Forfeiture of Dominion. *Lucas Waddingus* relates in his Annals, that Friar *Andrew*, Inquiſitor in *Tuſcany*, proceeded to ſeize a certain powerful Heretick, called *Capellus de Chia*. The Pope commanded, that all the Faithful, both Eccleſiaſtical and Secular, ſhould grant their Aſſiſtance, that they ſhould muſter an Army againſt him, and proceed in an hoſtile Manner to waſte and deſtroy his Lands. *Capellus*, knowing himſelf proſcribed, made a pretended Sale of the Caſtle of *Caſal*. *Peter James Surdus*, a Citizen of *Rome*, obtained from the Senators of the City an Order, that the Inhabitants of *Viterbo*, who had taken Arms in Obedience to the Church and the Inquiſitors, ſhould not attack it, falſely pretending that it belonged to him. The Pope chid him ſeverely, adding theſe amongſt other Words. *We therefore will, and by theſe Preſents ſtrictly command you, that as ſoon as ever you receive them, and as you regard the divine Favour and ours, you deſiſt from ſo impious and pernicious an Undertaking, as the Defence of the ſaid Caſtle, and that you don't enter it by any Means whatſoever; but that you do procure, that the Inhibition given thro' your Inſtigation by the aforeſaid Senators of* Viterbo, *be totally revoked. Otherwiſe we will have you to know, and certainly* a. 1260. §. 5, &c.

*tainly to understand, that we shall proceed against you, by Authority of the Lord, both spiritually and temporally, as a Defender and Favourer of Hereticks. Anagni, 2 May, and sixth Year of our Pontificate.* Moreover he exhorts the Inhabitants of *Viterbo*, that notwithstanding the contrary Orders of the Senators of the City, they should proceed in an hostile Manner, to waste the Lands of the aforesaid *Capellus de Chia.*

But in our own Time the *Spanish* Inquisitors are endeavouring to extend their Power and Jurisdiction further, and under the Pretence of Confiscation of Goods, to seize on theirs also, who have any Commerce with the *Spaniards*, though they live in other Countries not subject to them, and have separated from the Communion of the Church of *Rome*, because they have in their Possession some of the Effects of those who are in the Prison of the Inquisition, or condemned by the Inquisitors, according to the daily Practice of Traders and Merchants. Of this the Inquisition of *Madrid* gave a remarkable Instance a few Years ago. *Feb.* 1687. Many Persons were thrown into the Inquisition at *Madrid*, accused of being concealed *Jews*. Amongst these were *Diego* and *Anthony Diaz*, and *Don Damianus de Lucena*. About the End of *August* 1688. Sentence was pronounced against them, by which all their Effects were confiscated, and they themselves sent to *Toledo*, there to perform wholesome Penance. These Persons traded with *Peter Poulle*, a Merchant of *Amsterdam*, who was neither a *Jew* nor a *Spaniard*, but a Christian, and a *Dutchman*, who had in his Hands several of the Effects of these *Spaniards*. The Inquisition, in order to possess themselves of those Effects, which were not subject to their Power, discovered by private Enquiry, that this *Dutch* Merchant traded with several *Spanish* Merchants, and that he had a great many Effects in their Hands, and therefore ordered them all to be seized by the Receiver of the forfeited Goods, till they had the Value of those Effects, which the *Amsterdam* Merchant had in his Custody; and gave this Reason for the forcible Seizure, that the imprisoned Persons had a Claim upon the Estate of the *Dutchman*, and that their Claim was devolved upon the Inquisition, and that therefore they had the same Right as the Prisoners themselves to attach the others Effects, wherever they could be found in *Spain*: However, this Endeavour was in vain, because no Confiscation can be just, of such Effects which are in the Possession of another Person, who lives out of the Territories of the Judge, and is not subject to his Jurisdiction; and therefore the Lords of the united Provinces, at the Information and Request of the *Amsterdam* Merchant, obtained that those Effects should be restored to him.

This Punishment of Confiscation is inflicted upon all who are convict of Heresy, or confess, whether they repent, or persist in their Heresy, because they are declared to incur the Punishment, *ipso jure*, as soon as they fall into Heresy.

Pegna, *Com.* 148. *in* 3 *Part. Direct.*

But if any return of their own Accord to the Church, before they are accused or denounced, or immediately after their being seized give a full and genuine Confession of themselves, and of all others whom they know to be Hereticks, and who return with a pure Heart, before the Depositions of the Witnesses are made publick, as they may be graciously saved from Imprisonment,

so

ſo for the ſame Reaſon it ſeems equitable, not to confiſcate their Goods. In *Italy* 'tis rather owing to Cuſtom, than to any Right given by the Popes, not to confiſcate the Eſtates of penitent Hereticks. But in *Spain* this Confiſcation of the Effects of Hereticks takes place, even tho' they are penitent, by the Papal Authority, and the Laws of their own Kings; for there they believe that the Inquiſition ought not to reſtore the forfeited Goods even of Penitents, to the Damage of the Treaſury, when once it hath a Right to confiſcate them. Simancas *tit.* 42. §. 17. & *t.* 47. §. 15.

But if any return to the Church within the Time fixed by the Inquiſitors, the Catholick Kings have ordained, that they may recover and diſpoſe of their own Effects, as tho' they had never fallen into Hereſy, except they attempt to alienate their immoveable Effects; for this they are prohibited to do, without a Decree of the Prince, leſt they ſhould diſpoſe of all their Effects, and fly over to the Enemies of the Catholick Religion. 2 *Inſtruct. Cap.* 5. §. 17.

In the Conditions of Peace preſcribed to *Raymond* Earl of *Tholouſe*, it is farther provided, *That the Goods of ſuch as are heretically cloathed, ſhall be confiſcated, even tho' they have of their own Accord forſaken the Manners of the Hereticks, unleſs they can produce Letters teſtimonial of their Reconciliation, or can make it appear, and prove it by other Catholick and reputable Perſons. And altho' there be good Proof of their Reconciliation, yet they are ſubject to the ſame Puniſhment, unleſs they wear Croſſes according to the Admonition of their Biſhop, or if they lay them aſide by their own Authority, or if they are found to conceal them within their Garments, when they ought to wear them upon the Outſide of their Cloaths, hanging down upon the Forepart of their Breaſts.* Bzovius, *a.* 1228. §. 6.

But whereas the Children of the condemned Perſons are by this Puniſhment reduced to the extreameſt Want, being thus ſtripped of every Thing that belonged to their Fathers, to make it appear that they don't wholly abandon the Care of them, 'tis order'd, that the Inquiſitors, out of the Dictates of Mercy, may make ſome Proviſion for the poor Children of condemned Hereticks, according to their reſpective Sexes and Ages. Luſty Boys they order out to ſome mechanick Trade. The Girls they put to Service to ſome honeſt Matrons of the City, that they may be inſtructed in the Faith. As for thoſe who can't work, either thro' their Age, or bad Health, their Pity reaches no farther than to give them a mere Suſtenance out of their Fathers Effects, ſometimes intreating the Eccleſiaſtical and Secular Princes to exerciſe a little Liberality towards them; which they eſpecially ought to do, who receive theſe forfeited Effects. In relation to which 'tis thus provided in *the* Seville *Inſtruct.* c. 22. a. 1484. *In like manner they have decreed, that if there be any unmarried Sons or Daughters of Perſons delivered over to the ſecular Court, or condemned to perpetual Impriſonment for their Crimes, the Inquiſitors ſhall provide and order, that the aforeſaid Orphans ſhall be recommended to ſome honeſt Perſons, and Catholick Chriſtians, to be bred up, and diet with them, and to be inſtructed in the Catholick Faith; and let them draw up an humble Petition for the aforeſaid Orphans, in Reference to their Condition, what they want, and whether they are good Chriſtians, eſpecially for the poor Girls, that they may either marry, or profeſs.* In our own Time they Pegna *in Direct.* *p.* 103.

leave nothing for the Children of Hereticks, tho' they prove Catholicks, no not ſo much as ſeems due to them by the Law of Nature.

The next Puniſhment that follows this Confiſcation of Goods, is the diſinheriting the Children, inſomuch that tho' they are Catholicks, they can never inherit the Eſtates of their Fathers who died in Hereſy. Cap. *Vergentis in ſenium* de hæret. *Neither ought any Pretence of Compaſſion to prevent this ſevere Cenſure of diſinheriting even their orthodox Children, ſince in many Caſes the Judgment of God ſo proceeds, as that the Children are temporally puniſhed for their Fathers, and becauſe, according to the Canonical Sanctions, Crimes are revenged not only upon the Authors of them, but upon their Poſterity.* Cap. 28. §. 2. *part* 2. *Aſſert.* 44. *Zanchinus* adds, that the Children of Hereticks are incapable of ſucceeding to any of their Kin, or to other *Perſons*, whither *they die* with a *Will* or *inteſtate*. *John Royas* adds, that the Children of Hereticks, tho' born before the Commiſſion of the Crime, are comprehended under the canonical Penalties and Prohibitions, and ſays this is the common Opinion of the Doctors. The Reaſon is, becauſe Hereſy is a ſpiritual Crime, and doth not derive its Original from the Fleſh; and therefore it ſignifies nothing whether the Children be of the infected Root or not. But if a Son accuſes his heretical Father, as his Reward, he is freed from the Penalties ordained againſt the Children of Hereticks, according to the Law of the Emperor *Frederick. We don't exclude from the Bounds of our Mercy ſuch who, far from following the Hereſy of their Fathers, ſhall diſcover their Wickedneſs; ſo that to whatever Puniſhment the Fathers Guilt is ſubject, let their innocent Children be freed from it.*

The third Puniſhment is, their being rendred infamous. Cap. *Excommunicamus.* 1 §. *Credentes.* de hæret. There, amongſt other Things, 'tis ſaid, *Let him be* ipſo jure, *infamous; let him not be admitted to any publick Offices, or Counſels, nor to chuſe any into them, or to bear Witneſs; let him alſo be Inteſtable*, ſo that he can have no Power to make a Will, or to inherit by Virtue of one. Farthermore, let no one be forced to anſwer him upon any Affair, but let him be forced to anſwer others. If he ſhould happen to be a Judge, let his Sentence be void, and no Cauſe be referred to his Hearing. If he be an Advocate, let him not be admitted to plead. If a Notary, let no Inſtruments, drawn by him, be valid, but condemned with their condemned Author. And in all like Caſes we command the ſame to be obſerved.*

The fourth Puniſhment is, that they are deprived of all Dominion, natural, civil, and that which is introduced by the Law of Nations. Firſt, they are deprived of that natural Power they have over their Children. Cap. *Quicunq*; §. ult. de hæret. l. 6. Being thus deprived of the natural Power of Parents, they loſe all Authority over their Children, who, becoming as it were Strangers and Foreigners from their Fathers Family, are under no Obligation to obey them as before. This Crime of Hereſy in the Father, even before 'tis declared by the Church, frees the Son from his Father's Power, according to the Gloſs in Cap. *Quicunq*; §. ult. verbo *deſierint*, de hæret. l. 6. Direct. p. 3. Qu. 116. com. 165. Simanc. tit. 46. §. 74.

Farther, they are deprived of that civil Power which they have over their Servants, and of that political Power, which they have over any others ſubject to them. *Cap. ult. Extrav. de hæret.* So that Slaves, Freed-men and Ser- Direct. p. 3. Qu. 119. com. 168.

* See Marginal Note, *Vol.* I. *Pag.* 76.

vants

vants are *ipso facto*, freed from Servitude, and every Inſtance of Duty, the Moment their Maſter falls into Hereſy. In *Spain*, if the Slaves are Believers, or profeſs the Chriſtian Religion, when their Maſter falls into Hereſy, they recover their Freedom, according to the *Seville Inſtruction*, An. 1484. cap. 24. *Our Lords the King and Queen, out of their Goodneſs and Clemency, will and ordain, that the Servants of all Hereticks ſhall be made free, provided that if whilſt they lived with them they were Chriſtians.* But if they had not profeſſed the Chriſtian Religion, they are forfeited with the other Effects. And tho' ſuch Slaves ſhould have been made free by their Maſters, yet if it was after their becoming Hereticks, 'tis for that Reaſon null and void.

Subjects, when the Prince or Magiſtrate is an Heretick, are freed from their Obedience. Thus it hath often happened, that Kings pronounced Hereticks by the Pope, have, with all their Poſterity, been deprived of all their Dignities, Juriſdictions and Rights, their Subjects abſolved from their Oaths of Allegiance and Fidelity, and their Dominions given as a Prey to others.

And finally, they are deprived of that Power, which is introduced by the Law of Nations, whereby they loſe all Property in every Thing they have. Cap. *cum ſecundum leges.* de hæret. l. 6. inſomuch, that every one is at once wholly freed from every Obligation he can be under to Perſons fallen into manifeſt Hereſy. Cap. *abſolutos*, de hæret. *Let all know that they are freed from the Debt of Fidelity, Dominion, and all Service, to manifeſt Hereticks, how ſtrong ſoever the Obligations may be which they are under.* Theſe Things are thus inferred: " Firſt, if an " Heretick depoſites any of his Effects with any Perſon, ſuch Perſon is not " obliged to reſtore them to the Heretick, after his Hereſy is manifeſt, but " to the Treaſury. Farther, a Catholick Wife is not obliged to any Du- " ty to her heretical Huſband, becauſe by the Huſband's Hereſy ſhe is freed " from her Duty. In like manner a Catholick Huſband is freed from all Du- " ty to his Wife, if ſhe be an Heretick. Nevertheleſs they can't marry with " others, becauſe the Band of Matrimony is not diſſolved. An Huſband can't " be forced to cohabit with his Wife if ſhe is fallen into Hereſy, even tho' " ſhe is reconciled; nor is he bound to maintain her, becauſe her Dowry is " confiſcated by Hereſy; and as ſhe is ſtripped of her Dowry by her own " Fault, the Huſband is not obliged to maintain an unindowed Wife. *Zan-* " *chinus Ugolinus* explains this Matter more largely. The very Children, " Brothers and Siſters of Hereticks, ought to forſake them. Yea, the very " Band of Matrimony with ſuch is diſſolved. For if any one departs from the " Orthodox Faith, and falls into Hereſy, his Wife is not obliged to cohabit " with him, but may ſeek to be ſeparated from him by the Judgment of the " Church, ſuch Separation of the Bed being as reaſonable upon account of " ſpiritual Fornication, as for carnal. And if any Heretick ſhall, after his " Fall, return to the Unity of the Church, the other married Perſon ſhall be " obliged to return to him, if they were not before parted by the Sentence of " the Church. But if they were parted by Sentence, it ſhall be at the Op- " tion of the other Party who continued in the Faith, whether to return, or " *become Religious*; becauſe ſuch Party can't *remain* in the World, and take " another.

*Qu.* 119. *com.* 168.

Simanc. *t.* 46. §. 73.

Royas, *p.* 2. *Aſſert.* 40. §. 325.

*c.* 18. §. 2.

" another during the Life of the Party converted, becauſe made whole by " Penance.

Simanc. *ibid.* " Moreover, the Governors of Forts and Caſtles, of People or Cities, are " not obliged to reſtore them to their heretical Lord, nor to keep them in " his Name. Finally, all Vaſſals whatſoever are *ipſo jure*, freed from every " Obligation to their Lords, tho' ſuch Obligations ſhall have been con- " firmed by an Oath."

Hence proceeds the Maxim, that Faith is not to be kept with Hereticks, which ſome are not afraid openly to teach; altho' thoſe who are more wiſe in *Germany*, *France*, and the *Low Countries*, endeavour to wipe off this Spot from their Church. But the *Spaniards*, tho' they can't be daily charged with this Perfidiouſneſs, becauſe they have none whom they call Hereticks living amongſt them, yet aſſert it in plain and open Words, without diſſembling, and are not aſhamed to defend and confirm it by the Practice of the Council of *Conſtance*. See amongſt others, *Simancas Cathol. Inſtit. Tit.* 46. §. 52, 53, 54.

This then is one Part of the Puniſhment of Hereticks, and what tends to render them more odious, that Faith is not to be kept with them. For if it is not to be kept with Tyrants, Pirates, and other publick Robbers, becauſe they kill the Body, much leſs is it to be kept with obſtinate Hereticks, who deſtroy the Soul. And therefore certain Hereticks were moſt juſtly burnt by the grave Decree of the Council of *Conſtance*, tho' they had the Promiſe of Security. St. *Thomas* alſo is of Opinion, that an intractable Heretick is to be betrayed to his Judges, notwithſtanding a Catholick may have given his Faith, and bound himſelf by an Oath to the contrary. Add to this, that the Catholicks ought to have no Commerce, nor enter into Peace with Hereticks; and therefore notwithſtanding the Faith given to them, and confirmed by an Oath, it is not to be kept, becauſe againſt the publick Good, the Salvation of Souls, and contrary to the Laws of God and Man. But if Faith be given to Hereticks by a Prince, or any publick Power, 'tis to be exactly preſerved, excepting only in thoſe Things which the inſpired or natural Law forbids the Performance of.

*tit.* 46. §. 52. §. 53. §. 54.

To the ſame Purpoſe ſpeaks *Brunus*, altho' many now endeavour to diſguiſe this Villany. No Peace can, at this Day, be confirmed with Hereticks, who ſpread their impious Doctrine amongſt the Chriſtian People by their wicked Preaching, if made on this Condition, that they muſt not be offended. Yea, ſo much the more to be abhorred and abominated is Peace made with Hereticks and Schiſmaticks upon this Condition, that ſuch as offend them ſhall be condemned for Breach of the Peace. For how can Peace be broken by offending them, with whom no Chriſtian Man ought to have Communion, and whom they ought not to bid God ſpeed? Such may ſafely be offended, who by the Civil Laws are put under the Imperial Bann, who are permitted to have no Liberty of meeting or abiding on the *Roman* Ground, or indeed in any Place, wherein they may injure the very Elements themſelves, and finally, who by all Laws human and divine, deſerve to be extinguiſhed.

Brunus, *l.* 3. *c.* 15. §. 8.

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The ſame Perſon teaches, that no Covenants, Conventions or Laws are firm, that permit Hereticks to have or reform Churches, or to poſſeſs or adminiſter their Revenues; or by which the Proceſſes of Churches againſt Hereticks or Schiſmaticks, that are or may be moved in Judgment, are wholly put off, or ſuſpended for a Time, or for ever; or finally, by which Hereticks and Schiſmaticks are permitted to exerciſe any Juriſdiction or Adminiſtration, either by themſelves or with Catholicks, or to enjoy any publick Offices. C. 16, 17, 18.

Moreover, all Places of Refuge, which are open to Malefactors and the worſt of Villains, are denied to Hereticks, as tho' they were the very Offſcouring of the Earth, and had put off the very human Nature at the ſame time they did the *Roman* Religion. Thus *Simancas*: "An Heretick flying to a Church, ſhall not be protected by the Sanctity of the Place, *i. e.* the Immunity of the Churches. And therefore *Gundemir*, King of the *Goths*, who granted this Immunity to the Churches of *Spain* more than 900 Years ago, excepted three Sorts of Men from it, *viz.* Thieves, Traytors and Hereticks, as *Peter Medina* relates in his Life." *tit.* 46. §. 65. *tit.* 46. §. 65.

"*Simancas* adds, That altho' in almoſt all Crimes nobler Perſons are ſubject to one ſort of Puniſhment, and the meaner to another, yet in the Crime of Hereſy the ſame Puniſhment is appointed for all, without Reſpect of Perſons. So that a noble Perſon falling into Hereſy is infamous and vile, and muſt ſuffer the Puniſhment due to the meaneſt. For there is no Difference in Matters of Faith and Religion between the Great and the Small, the Noble and Ignoble. The Law of *Honorius* and *Theodoſius* ſays, They are all equal to one another, who are equal in the Pravity of Doctrine. And another Law ſays, They who are alike defiled, and made equal by their Wickedneſs, are equally ſubject to the ſame Puniſhment, *l.* 49. *tit.* 4. *lib.* 16. *C.* Theod. and *l.* 1. *tit.* 27. *lib.* 9." §. 67. §. 68.

Finally, they teach, that heretical Kings are to be deprived of their Kingdoms for Hereſy. Thus *Simancas*: "'Tis enquired whither the Kingdom of an heretical King, who hath no Superior, can be confiſcated? The Reaſon of the Doubt ariſes from this, becauſe the Goods of Hereticks are forfeited to the ſuperior Lord. And therefore *Alphonſus Caſtrenſis* is of Opinion, That ſuch Kingdom belongs to the Catholick Son of an heretical King, in the ſame Manner as it would if the Heretick were dead. But if the Son and next of Kin be alſo Hereticks, a Catholick Kingdom may chuſe themſelves an Orthodox King. But if the Kingdom be heretical, the Election of a Catholick King belongs to the chief Pontiff." This Opinion is not diſpleaſing to *Simancas*, tho' he adds, that it may juſtly be ſeized on by the Catholicks. §. 75.

The fifth Puniſhment is Impriſonment. For altho' by the Civil Law the Priſon is only to detain Men, yet by the Canon Law it may be uſed as a Puniſhment. C. *Quamvis* de pœnis, lib. 6. So that an Heretick either confeſſed or convict, may either be delivered to the ſecular Court, or condemned to perpetual Impriſonment. In which Caſe the condemned Perſon ſhall be puniſhed at the Option of the Judge. Brunus, *l.* 5. *c.* 12.

The

Brunus, *l.* 5. *c.* 14. The ſixth Puniſhment is the Bann and Diffidation *. Authent. *Gararos.* c. de hæret. The Bann is that Sentence, by which any Perſon is caſt out of the Commonwealth, ſo that he can't enjoy the publick Protection, or diſcharge any publick Offices, or receive any Benefit of Law, and hath ſome Likeneſs with Excommunication. For as by Excommunication a Perſon is caſt out from the Converſe of the Faithful, ſo by the Bann he is excluded from the common Good. Diffidation declares Hereticks to be Enemies of their Country and the Empire. Its Effect is this: When any one is declared an Heretick by the Sentence of the Judge, any Man, by his own private Authority, may ſeize, plunder and kill him, as an Enemy or Robber, even tho' he be a Clergyman. He may be capitally puniſhed as a Deſerter, and attacked with Impunity where-ever he is found. That Hereticks may thus be ſeized on, and plundered by the private Authority of any Man, *Innocent* IV. openly determines by a Reſcript, beginning, *Ad extirpanda*, in which, amongſt other Things, there are theſe. *Alſo the ſame Governor or Ruler of any City or Place, in the Beginning of his Government, ſhall hold a publick Aſſembly as uſual, and put under the Bann of that City or Place all Hereticks of both Sexes, and of whatſoever Name or Degree, even as he would the vileſt Offenders, and ſhall be bound to confirm the Bann they were put under by his Predeceſſors; eſpecially that no Heretick, Man or Woman, may any longer inhabit, abide, or dwell in the City, in any Part of its Juriſdiction, or Diſtrict of the ſame. And whoſoever ſhall diſcover him or her, he may freely and ſafely apprehend and ſeize them, and lawfully ſtrip him or them of all their Effects, which they who take them ſhall have full Right to, unleſs they happen to be in Office.* And this Plunder of Hereticks *Brunus* tells us is by divine Right. *Hereticks, by divine Right, may be ſtripped of all their Effects, as unworthy their Poſſeſſions. For the Juſt ſhall devour the Labours of the Wicked; and therefore Catholicks may claim the Places of Hereticks. Theſe Things are permitted againſt Hereticks, becauſe Religion and the Chriſtian Faith is endangered by their Impiety.* Auſtin Epiſt. 48.

Direct. 3. part. com. 36.

De hæret. l. 5. c. 5. §. 2, 4, 7.

Brun. *l.* 5. *c.* 16. §. 13. "But if an whole City or Community favours and defends Hereſies, or "nouriſhes Schiſm againſt the Catholick Church, let it be out-lawed, and "put under the Imperial Bann. The Conſequence of this will be, that a City "thus banned and out-lawed will become an Enemy of the Empire, and all "its Citizens, as Enemies, may be with Impunity hurt in their Perſons and "Goods, and be all of them expelled, by the Prince, from ſuch Cities where "they dwell. Such a City may be alſo ſubject to ſuch a Puniſhment as is pro-"portionable to Death it ſelf; *i. e.* by the Civil Law it may be eraſed "from its very Foundations, and by the Canon Law burnt to Aſhes. "This Puniſhment the Canoniſts derive from *Deut.* xiii. where the *Iſraelites* "are commanded to burn that City which ſhould ſerve other Gods, and de-"ſtroy it utterly, and all that is therein, and the Cattle thereof, with the "Edge of the Sword. And there are ſome who think this is allowed to every

* *Diffidare* is properly to withdraw by Letters or Writing, that Protection, which one owes to another, or hath promiſed him.

one,

" one, and that the Church hath granted Authority to all to extirminate He-
" reticks; tho' others are of Opinion this can't be done but by the Authority
" and Command of their Superiors; which Opinion, according to *Brunus*, is
" the ſafeſt, if not more agreeable to Law, as *Dominick* apprehended it was.
" But the moſt neceſſary Thing of all is, that no Injury be done to heretical
" Univerſities or Communities, before they are pronounced guilty of this
" Crime by a declaratory Sentence."

But if Hereticks are apprehended, 'tis not lawful for any one to undertake their Defence *. All Advocates or Notaries, who give Aſſiſtance or Favour to Hereticks or their Abettors, or who plead for them when under Examination, or draw any Inſtruments for them, are pronounced infamous, and ſuſpended from their Office †. Hence they infer, " That no one muſt defend,
" or be an Advocate for any who are known to be Hereticks. As often in-
" deed as this is doubtful, and it is not yet certain whether the Words or Deeds
" objected againſt any Perſon as heretical, do ſavour of manifeſt Hereſy; or
" whilſt the Charge of Hereſy is not confirmed by Witneſſes, or other legal Pegna *in*
" Proofs, any one may be Advocate for him, and plead in his Defence; *i.e.* if *Direct.*
" the Inquiſitors allow him, and provided he take an Oath before-hand to make *p.* 104.
" a juſt Defence, and to deſiſt from it as ſoon as ever it ſhall be known that the
" Perſon he defends is an Heretick. And this is always the Method obſerved."

The laſt Puniſhment of Hereticks is that of Death, and that not the common one, but the moſt terrible that can be inflicted; *viz.* to be burnt alive. This they infer from 2 *Kings* xxiii. where *Ozias* commanded the Bones of the heretical Prieſts to be burnt; and from the Words of our Lord, *John* xv. 6. *If a Man abide not in me, he is caſt forth as a Branch, and is withered, and Men* l. 5. c. 13. *gather them, and caſt them into the Fire, and they are burned.* Here *Brunus* obſerves, §. 14. ſome think that this Puniſhment was introduced only by Cuſtom, and can be proved by no other Right, whither divine or human. This is his Opinion, for, ſays he, *this Puniſhment can't be inferred from that Paſſage of the Goſpel, of throwing the Branch into the Fire. For this ſpeaks of the eternal Fire of Hell, and not of the temporary Puniſhment of Fire. Nor do the Civil Laws prove this Puniſhment. For tho' they fix that Puniſhment againſt Hereticks, which we call Death, yet they don't expreſs this kind of Death, viz. the Puniſhment of Fire; which undoubtedly the Lawgivers would have done, if they had determined to appoint it againſt Hereticks; eſpecially as the Puniſhment is ſo terrible, that they expreſsly mention it, when ever they think the Heinouſneſs of the Crime deſerves it; as may be made appear from other Conſtitutions, where this Puniſhment is particularly ſpecified.* [However, *Ludovicus a Paramo* finds out this Puniſhment of Fire in many Places of the New Teſtament. " *James* and *John* thought that the *Samaritans*, who would not
" receive our Lord, ſhould be deſtroyed with Fire from Heaven, according to
" St. *Luke*. Cap. 9. See here now the Puniſhment of Hereticks, *viz.* Fire. For
" the *Samaritans* were the Hereticks of thoſe Times, *Mat.* xxi. and xxii.
" *Mark* xii. and *Luke* xx. Chriſt adds three Parables. One of the two Sons.

* Cap. *Si adverſus nos terra conſurgeret.* de hæret. & cap. 2. §. 1. *de hæret.* lib. 6.

† See cap. *Excommunicamus.* §. *Credentes.*

" Another of the Vineyard let out to the Husbandmen. The third of the " Nuptial Feaſt prepared for thoſe who were invited. By theſe he plainly " ſhews, that the Kingdom was to be taken away from the heretical *Jews*, and " their City to be burnt with Fire. See here now the very Confiſcation of Ef- " fects, and Fire with which Hereticks are puniſhed." Nor is this Reaſoning to be wondered at in a Man, who every where in the Old and New Teſtament, and even in Paradiſe it ſelf, finds out an Inquiſition againſt Hereticks, and endeavours to prove by many Arguments, that God himſelf exerciſed the Office of Inquiſitor of heretical Pravity againſt *Adam* in Paradiſe, *lib.* 1. *tit.* 2.] The firſt who ordained this Puniſhment of burning Hereticks, after it had been ſome time in Uſe in the Church of *Rome*, was *Frederick* II. by a Law which begins, *Inconſutilem.* §. 4. which ſays: *By the Tenor of this preſent Law, we decree, that the Patarenes, and all other Hereticks whatſoever, being condemned, ſhall ſuffer that Death which they affect, and that being committed to the Flames, they ſhall be burnt alive in the View of all Men.* This Law many Popes have confirmed, and therefore the Puniſhment of Fire hath been ordinarily inflicted upon impenitent Hereticks, as is the Cuſtom of the Church of *Rome* to this Day. *Panormitanus* ſays *, *that Hereticks ought to be puniſhed with Fire, and burnt, and that in this the Divine, Canon, Civil, and Common Law agree.* *Simancas* alſo † not only endeavours to prove by many Arguments, that Hereticks ought to be burnt, becauſe Heathens and Hereticks thus puniſhed the Catholicks, as *Euſebius*, *Ruffinus*, *Socrates* and others teſtify; but contends that 'tis the moſt antient Puniſhment, as appears from the Acts of the Council of *Chalcedon*; becauſe the Biſhop of *Alexandria* is there reported to have ſaid, If *Eutiches* pretends to be wiſer in his Opinions than the Church, he is not only worthy of Puniſhment, but to be burnt; and becauſe, as *Nicephorus*, *Eccleſ. Hiſt.* Book 18. Chap. 4. relates, they ordered *Anatolius* the Heretick to be burnt alive.

*De Cathol. Inſtit. tit.* 46. §. 48. *Simancas* alſo infers this Puniſhment from a certain Law of *Theodoſius*, ſaying, that *Theodoſius* publiſhed a Conſtitution, in which are theſe Things. *Farthermore we command, that whoſoever ſhall bring over a Servant or Freeman unwillingly, or by Perſuaſion, to the wicked Sect, or Ceremony from the Chriſtian Worſhip, ſhall loſe both his Fortune and his Head.* And a little after, *Let him farther know, that his Goods ſhall be forfeited, and afterwards he himſelf put to Death, who ſhall pervert any one from the Faith by falſe Doctrine.* *Simancas* adds, *A Law truly worthy of a* Spaniſh *Emperor.* Vid. Cod. Theodoſ. *Tit.* de Judæis L. prima. & lib. 16. tit. 6. l. 55.

§. 53. So that Hereticks muſt be puniſhed with Fire, and if that can't be done, they muſt at leaſt be baniſhed and expelled, and their Effects forfeited, agreeable to the Laws of the old *Gothick* Kings in *Spain*, by which the Goods of Hereticks were confiſcated, and they themſelves deprived of Honour and Dignities, and baniſhed for ever.

With this Puniſhment of Fire only Hereticks relapſed, obſtinate and impenitent are puniſhed, who, after Sentence, are delivered over to the ſecular

* In cap. *ad Abolendam.* de hæret. lib. 6. ſuper gloſſ. in verb *Audientia*, allegans Hoſtienſem poſt Joan. Andr. † Cathol. Inſtitut. tit. 46. §. 47. & ſeq.

Judge,

Judge, who was bound immediately to condemn them, and ſend them to the Fire. The Obſtinate were to be burnt alive; others to be firſt ſtrangled, and then burnt. 5 *Inſtruct. Hiſpal. cap.* 9. *Simanc. Ibid.* §. 49.

Sometimes this Puniſhment of Burning is heightned by another kind of Cruelty. In *Spain* and the *Netherlands*, leſt they ſhould ſpeak to the Spectators when brought to the Stake, and piouſly teſtify their Conſtancy, they were gagged with an Iron Inſtrument, ſo that in the Midſt of their Torments they could utter only an inarticulate Sound. Thus alſo *Simancas* pronounces, *That obſtinate Hereticks ſhould be burnt alive, and be brought to the Stake gagged, that they mayn't offend the little ones.* This Muzzle or Gagg the *Spaniards* in their Language call *Mordaza.* And if they could invent any Thing more terrible, they would not fail to uſe it againſt Hereticks. This *Carena* teſtifies, affirming that the Cuſtom of puniſhing Hereticks with Fire is moſt reaſonable, *becauſe Burning is the moſt terrible Death, and therefore the moſt grievous of all Crimes ought to be puniſhed with it; ſo that if any Puniſhment more terrible than this could be found out, it ought to be inflicted on Hereticks; and alſo becauſe by this Means the Heretick and his Crime is more ſpeedily blotted out from the Remembrance of Mankind.* *tit.* 48. §. 6. *tit.* 13. §. 1. *Num.* 7.

Thus we ſee that there is no kind of Puniſhment that can poſſibly be invented, but is enacted againſt Hereticks, and that greater Gentleneſs is uſed towards Thieves, Traytors and Rebels, thoſe Enemies of Mankind, than towards miſerable Hereticks; who endeavouring to worſhip God with a pure Conſcience, and regulate their Lives by the Goſpel Rule, yet oppoſe ſome Doctrines of the Church of *Rome*, which they are perſuaded are contrary to the Goſpel; and that it is a much more grievous Offence in that Church, to oppoſe certain Opinions by the clear Light of the Word of God, and to reject certain Phariſaical Superſtitions, than openly to contemn the divine Commands by an impious and profane Life, and vilely to diſhonour the moſt holy Name of God.

## CHAP. III.

### *Of Open and Secret* HERETICKS.

HEreticks are divided into ſeveral Claſſes in the Church of *Rome*, and this is very neceſſary for the Inſtruction of the Inquiſitors, that they may always certainly know what Sentence to pronounce upon each. However, every Thing is not ſo fully determined, but that there yet remain great Controverſies amongſt the Doctors and Inquiſitors themſelves, ſo that one of them often judges more favourably than another; and therefore 'tis of great Concern by what Inquiſitor any Perſon is to be judged; for he who happens to be condemned as an Heretick by a ſevere one, might have obtained a milder Sentence, had he been tried by a Judge of more favourable Sentiments and Opinions.

Firſt of all Hereticks are divided into Open and Secret. "An open Heretick is one, who publickly avows ſomething contrary to the Catholick Faith, Eymer. *p.* 2. *qu.* 33.

" Faith, or who profeſſes an heretical Error contrary to the Faith, or who " defends an Error of his own, or one of other Hereticks, or who is con- " victed before the Judges of the Faith of heretical Pravity, or confeſſes it " himſelf; or finally who is condemned for it by their Sentence.

Simanc. tit. 52. §. 3. " A ſecret or concealed Heretick is one who errs in his Mind concerning " the Faith, and purpoſes to be obſtinate in his Will, but yet hath not ſhewn " it outwardly by Word or Deed. He who is a concealed Heretick in this " Senſe, is generally called an Heretick purely intellectual: and the common " Opinion of the Doctors is, that ſuch a one doth not incur the Sentence of " Excommunication, and is not ſubject to the Judgment of the Church for " his Hereſy, becauſe the Church hath no Power over purely internal Acts, " and cannot by its Juriſdiction direct, prohibit or puniſh them; and be- " cauſe Excommunication doth not belong to the Court of Conſcience, but to " that of external Judgment.

Part. 1. §. 240, &c. " *John Royas* however affirms, that the Canoniſts differ from this general " Opinion of the Divines, and determine that an altogether concealed Here- " tick is excommunicated, becauſe there is no Need of the Service of Men in " Penalties which are *ipſo jure*, contracted. For as a Man falls into Hereſy " by a mere Act of his Will, ſo for the ſame Reaſon, becauſe he by his Will " alone believes heretical Errors, he actually falls into Excommunication; " eſpecially becauſe Excommunication neceſſarily draws along with it imme- " diate Execution, and cleaves to Hereſy as a Leproſy to a Leper, and a " Shadow to a Man. He adds: If any one contracts Hereſy in his Mind and " Underſtanding, believing God was not incarnate, or that holy *Mary* was not " a Virgin, and doth not proceed to the external Act, by openly declaring it " to himſelf or another, but contains his Error and aforeſaid Hereſy entirely " in his Heart, but afterwards, through the Influence of better Counſels, for- " ſakes and repents of it, and then comes, as hath been often done, to the In- " quiſitors of heretical Pravity, confeſſing that he received and believed the " ſaid Errors, deſiring from them Abſolution and wholeſome Penance, is not " ſuch an one an Heretick, even though altogether and entirely concealed and " mental, and by Conſequence excommunicated, and therefore to be abſol- " ved? And whereas 'tis objected, that the Church doth not judge of ſecret " Things, he adds, this is meant only of that Court, which conſiſts of the " Actor, the Criminal, the Judge and Witneſſes; whereas the Crime of He- " reſy, tho' altogether concealed, requires nothing external, becauſe 'tis a " mental Offence, and is committed by the mere Thought of the Mind, and

§. 115. " therefore the Church may well judge of this without the Judgment of a " Court, and by a Parity of Reaſon of Excommunication which cleaves to " Hereſy. Beſides the Church forbids the inward Acts of the Mind, and " declares a Perſon an Heretick, tho' ſecret or mental, and therefore it judges " of ſecret Things, and therefore why not of Excommunication, which ad- " heres to Hereſy. This is a Deciſion of great Moment. For an excom- " municate Perſon needs Reconciliation, and tho' the Reconciliation granted " to a Penitent be favourable, yet as 'tis the Abſolution of Excommunication, " ſuch Reconciliation is attended with Forfeiture of Goods and perpetual Im- " priſonment.

" But

" But a Perſon may be called a concealed Heretick in another Senſe, *viz.* Simanc. " who by Word or Writing hath brought forth that Hereſy which he hath *tit.* 52. " conceived in his Heart, tho' with Secrecy and Craft; ſo that 'tis called " concealed Hereſy, becauſe 'tis not notorious, and can't be proved. Such a " one incurs the Sentence of Excommunication, and is liable to the other " Puniſhments of Hereticks, becauſe he hath declared his Hereſy, tho' pri- " vately; and if he confeſſes his Hereſy before the Inquiſitor, and repents, " he is to be privately abſolved. Thus in *the* Seville *Inſtructions*, 1 Cap. 5. §. 11. " where we have the general Form of publick Abjuration laid down, with " this Exception: *Unleſs the Crime be ſo ſecret, that the Penitent only knows it,* " *and it can't be diſcovered by another, in ſuch Caſe he is to be ſecretly reconciled and* " *abſolved*;" which they thus explain, When an Heretick hath declared or written down his intellectual Hereſy, and yet no one hath heard or read it, tho' others underſtand this of an Hereſy purely mental.

Altho' an Heretick be thus concealed, yet if he infects or perverts others, §. 12. he is immediately to be diſcovered to his Judges without any preceeding Admonition. But yet they don't affirm that a concealed Heretick is obliged to betray himſelf, when he is asked by the Judge in a general Inquiſition, Whether he knows any Heretick. In like manner, when an Heretick purely mental confeſſes his intellectual Hereſy in the ſacred Court of Penance, he doth not incur Excommunication by this external Act, becauſe ſuch an Action is §. 9. good and pious, and not liable to human Judgment.

## CHAP. IV.

### *Of Affirmative and Negative* HERETICKS.

HEreticks are farther diſtinguiſhed into Affirmative and Negative. Affir- Eymer. mative are ſuch, who err in their Mind in Matters of Faith, and who *part.* 2. ſhew by Word or Deed, that they are thus obſtinate in their Will, and open- *q.* 34. ly confeſs it before the Inquiſitor. Negative Hereticks are thoſe, who, according to the Laws of the Inquiſition, are rightly and juſtly convicted of ſome Hereſy before a Judge of the Faith, by ſome lawful Witneſſes, whom either they cannot or will not refute, but yet who will not confeſs, conſtantly perſiſting in the Negative, and that they profeſs the Catholick Faith, and deteſt heretical Pravity. They except indeed againſt Facts committed many Years before, which are preſumed to be forgotten. But even this is not to be preſumed in Facts of Importance and Weight, according to the *Seville* Inſtructions, *An.* 1484. *cap.* 13. Such are, If any hath wilfully preached up heretical Propoſitions, or broken the Images of the Saints. Neither is this to be underſtood of Perſons of good Memories, but only of light Facts, and of Perſons naturally dull and forgetful. Who are to be eſteemed ſuch, and what Time is to be ſuppoſed ſufficient to ſuch Forgetfulneſs, is entirely left to the Eccleſiaſtical Judges, after they have weighed the Circumſtances of Perſons and Things.

He alſo is eſteemed by many a negative Heretick, and, as it were, diminute, confeſſed, and obſtinate, who doth not diſcover either all the Hereſies of which

which he is convicted, or the whole Time of his Offence, or all his Accomplices, if the Things are ſo freſh, as that he can't be ſuppoſed to have forgotten them. Amongſt theſe ſort of Negatives are alſo reckoned by ſome, ſuch who confeſs before the Inquiſitor heretical Facts or Words, but who deny any Pravity of Intention, altho' others, as we ſhall ſoon ſee, call them Impenitent.

*Catbol. Inſtit. tit. 6. §. 19.* What their Puniſhment ought to be, the Doctors differ. *Simancas* ſays, That he who confeſſes heretical Words, but denies the Pravity of Intention, may be condemned as Impenitent, except the Matter be doubtful. In ſuch Caſe he ought to be purged, or abjure, becauſe of his being ſuſpected, or put to the Torture, which is generally the Cuſtom.

But becauſe this Caſe often happens in *Spain*, becauſe of their new Converts from the *Jews* and *Moors*, *John Royas* handles this Matter largely, of which I ſhall here give you the Subſtance; from whence we ſhall know what ſort of Chriſtians they are, which the *Spaniſh* Kings have converted to their Church by the Fear of Puniſhment from amongſt the *Jews* and *Moors*.

*De haret. part. 1.*

*n. 1, &c.* We know by Experience, how many there are who are detained for heretical Pravity in the Priſons of the Office of the holy Inquiſition, who ingenuouſly confeſs heretical Deeds and Words, but who abſolutely deny all raſh Belief, and

3. Pravity of Intention. Thus a Man may confeſs that he hath ſaid, as often happens in examining Cauſes of Faith, that every one may be ſaved in his own Sect and Opinion, a *Jew* by the *Jewiſh* Law, a *Saracen* by

4. the *Mahometan*, and a *Lutheran* in the *Lutheran* Sect. For the guilty Perſon ſometimes confeſſes in his Diſcourſe, that he pronounced the aforeſaid Words inadvertently, and thro' the Error of his Tongue, and being asked by the Inquiſitors of heretical Pravity, Whether he believes ſuch Things, he ſays he never did, but that he ever held what the holy *Roman* Church preaches and

7. teaches. Thus he denies the Intention, and only confeſſes the Words, which without doubt are heretical. Another Inſtance is of one who confeſſes that he ſaid ſimple Fornication is not a mortal Sin, and yet denies all raſh Belief and Error of Underſtanding, aſſerting that, ſpeaking for Wantonneſs ſake, he pronounced the aforeſaid Words to ſome Wenches, which are in Reality heretical Words.

An Inſtance of an heretical Fact ſhall be in him, who being baptized, is afterwards circumciſed, and obſerves the Faſt called *Ramadan*, and the Paſſover,

10. after the *Mahometan* Manner, and makes the *Zalah*, i. e. his *Adoration or Prayer* in his own Home or in the Moſques, waſhing firſt his Body, and eſpecially his Privities, bending his Knees, bowing down, and lifting up his Head, and who feeds on Fleſhes killed from the * *Keblah*. The new Converts in the Kingdoms of *Valencia*, *Aragon* and *Granada*, publickly obſerve many other ſacrilegious and impious Rites. Another Example is of him, who eſpecially if he be

15. of the *Jewiſh* Race, obſerves the Sabbath by refraining from all Labour, and

33. obſerves the other Feſtivals of the *Jews*, and who confeſſes ſuch Facts and Words, but affirms that he ſaid or did them inadvertently and ignorantly, and that he is ready to ſubmit to the Correction of the Church. 'Tis queried,

* The *Mahometans* call that Part of the World, where *Mecca* is ſituated, by the Name of *Kebla*, towards which they are obliged to turn themſelves when they ſay their Prayers. *Mecca* is ſituated towards the South.

whether

whether ſuch a one is to be accounted an Heretick, even tho' not convicted by lawful Witneſſes.

On the negative Side 'tis urged, that Hereſy ſuppoſes an Error in the Underſtanding, and Obſtinacy in the Will in adhereing to thoſe Things which are contrary to the Determination of the Church. Hence they infer that that of *Innocent* is reaſonable and true, who ſaid, That if any one believes what the Church believes, but thro' the Influence of natural Reaſon falſely ſuppoſes that the Father is either greater than the Son, or before him, or that the three Perſons are three Things diſtinct from each other, he is not an Heretick, and doth not offend, becauſe he believes this is the Churches Belief, and ſuppoſes his own Opinion to be the Faith of the Church. Therefore he thinks 'tis but reaſonable, that in the Defences of the Criminals, regard ought to be had to their Simplicity and Imprudence, ſo that the Puniſhment may be mitigated, and that the Judges, eſpecially the Inquiſitors of heretical Pravity, according to their Office, ſhould be very ſolicitous and diligent in examining and ſearching into their Defences, becauſe of the partial and maimed Defence of the Criminals, tho' the Party doth not ſeek it, or even refuſe it. But he adds, that 'tis *antiently* decided by the *Rota* 875 in C. *Accuſatus de hereſi*, in tit. *de hæret.* that if any one be accuſed of Hereſy, and legally convicted by Witneſſes or otherwiſe, and yet denies that he ſaid or believed ſuch heretical Things, yet that he ought nevertheleſs to be condemned as a negative and impenitent Heretick, and delivered over to the ſecular Arm, altho' he aſſerts that he believes, and hath believed as the Church believes.

40. 64. Cap. Firmiter de ſumma Trin. &c. n. 6. 66, 67. §. 69.

However, the Doctors generally maintain the Affirmative, becauſe the Nature of Facts demonſtrate the Intention, Mind and Will of the Doers. For Inſtance, If any one ſhould do a properly *Jewiſh* Action, ſuch as obſerving the Sabbath, and other *Jewiſh* Rites, from thence is inferred the Intention and Will of *Judaiſing*. If the Intention doth not appear, in a doubtful Caſe, 'tis preſumed that this was done with the Intention of *Judaiſing*, when the Act or Commiſſion is certain, either from the Perſon's Confeſſion, or by Witneſſes, and eſpecially if the Perſon be ſuſpected. He therefore who confeſſes an heretical Action, and denies the Intention, which is the Quality affecting ſuch an Action to make it puniſhable or not, may poſſibly be condemned as a negative Heretick; at leaſt may be tortured to diſcover his Intention, as the Doctors are generally of Opinion, and as is the uſual Practice. But if the Fact be plainly heretical, ſuch as a Perſon's going over, or returning to the *Jewiſh* or Pagan Rites, 'tis ſufficient to his being condemned as an Heretick, that he be convicted of the Fact, altho' there be no certainty as to his *Belief*. They alſo make a Difference between an heretical Word and Fact, and *Royas* gives the Reaſon of this Difference. There is this Difference between one who confeſſes an heretical Fact, and one who confeſſes an heretical Word, and denies the evil Intention; that he who confeſſes the Fact is to be delivered over eſpecially if he be a ſuſpected Perſon, and the Fact hath been repeated; whereas he who confeſſes an heretical Word, is to be tortured to diſcover his Intention. The Reaſon of the Difference is, becauſe there is a greater Affection of the Soul, and Deliberation of the Mind in Facts than in Words. To this they add, that there are

§. 276. §. 284. Part. 2. §. 400. §. 317.

other

other Sins, ſuch as Covetouſneſs, Intemperance, Luſt, *&c.* to which Men are naturally prone. Others to which Nature doth not lead Men, yea rather to which the Appetite and Pleaſure of Men is repugnant; ſuch as, in the Time of a Faſt not to eat till Night, or pray, or not to eat Swines Fleſh, not to drink Wine, or to obſerve the evil Ceremonies of the *Mahometans* or *Jews*. As to the former, Men are carried into them by their own Wills. As to the latter, the Will is undoubtedly governed in its Choice by the Underſtanding, and therefore it may be concluded that they proceed from an evil Intention and
§. 346. *Belief*. So that if ſeveral Witneſſes depoſe in general, that ſuch a one hath a good Reputation, their Teſtimony deſerves no Credit to prove ſuch a one to be a Catholick, if he be convicted by two Witneſſes, to have particularly ſaid
§. 358. or done ſomething repugnant to the Catholick Faith. This is the Caſe when the Action is forbidden. But if it be of an indifferent Nature, which may be either good or evil, they ſay there ought to be no Preſumption of a Crime, but that the ambiguous Deeds or Words ought to be interpreted on the more
§. 366. charitable Side. If, for Inſtance, any one ſays, The *Lutherans* are more noble, *i. e.* in the Catholick Senſe, the Peers and Nobles in *France* are *Lutherans* more than the common People, 'tis not heretical. If it be underſtood of the Nobility of their Virtues and Morals, 'tis ſuſpicious; if of the Nobili-
§. 378. ty of Religion, 'tis heretical. But this they ſay muſt only be underſtood as to the full Proof of an Offence, and not as to any Preſumption for which a Perſon may be tortured, eſpecially if he be ſuſpected. For in a doubtful Caſe Hereſy is to be preſum'd, and if the Proofs appear too plain, he is to be put to the Torture (becauſe the Salvation of his Soul is concerned) that he may confeſs under Torture, and be reconciled, and receive his Penance, that if he be capable of Correction
§. 378. his Spirit may be ſaved, according to St. *Paul*. Farther, 'tis uſual in this Office of the Inquiſition, that in expounding the Words of any Propoſition, the Nature and Condition of the Speakers be attended to; particularly whether the Words were ſpoken by a Countryman, of poor Capacity, in a blundring Way, and without Deceit and evil Belief; or by a learned Perſon, of an acute Underſtanding, and in a ſubtle Manner; for then they are to be underſtood to be deceitful. All theſe Things are to be conſidered by the Qualificator Divines, whom the Inquiſitors call and conſult, and to whoſe Opinions the In-
§. 384. quiſitors ought wholly to aſſent. Finally, they affirm, that if the Mind and
§. 577. Intention is not to be proved by the external Actions, it can never be proved,
§. 590. and ſo the Crime of Hereſy can never be puniſhed. From hence *Royas* concludes, that he who confeſſes an heretical Action or Word, but denies the wicked Intention, denies that which is the principal Form and Subſtance, and is therefore to be delivered over as a diminute, impenitent and negative Heretick. The ſame is to be affirmed of him, who being fully convict of ſeveral
§. 595. Errors, confeſſes ſome, but denies others; becauſe he is deficient in a ſubſtantial Part. 'Tis not ſo with one who confeſſes all his Errors, tho' not the ſeveral Times which are proved by legal Witneſſes.

From this long Account, of which this is only the ſummary, one may infer, that 'tis the common Opinion of the *Spaniſh* Doctors, that ſuch who confeſs an heretical Word or Action, but deny the Intention, are to be put to the Tor-

ture

ture to make them confeſs ſuch Intention; but that ſuch who confeſs an heretical Deed, and deny the Intention, are to be ſent back as negative Hereticks, and delivered over to the ſecular Court. Yea, as to doubtful Words, it is to be preſumed there is Hereſy; not ſo indeed as to be full Proof, but ſo far as to be a juſt Reaſon for the Torture.

*Royas* affirms the ſame of ſuch who retract the Confeſſion they have made when under Examination. *Part.* 2. *Aſſert.* 25. "He who confeſſes his heretical Errors when under "Proſecution, and afterwards retracts his Confeſſion, is to be delivered over as "a Negative, unleſs the Miſtake plainly appears. For by Confeſſion the Of- "fence is fully proved, and by retracting it, the guilty Perſon becomes obſti- "nate, impenitent and negative. And therefore unleſs the Miſtake appears, he is "to be delivered over even though there be no other Proof of the Crime, and "although his Confeſſion was made and confirmed under Torture. For "this is the ſame Thing as a free and ſpontaneous Confeſſion, although "afterwards revoked, if the Miſtake doth not plainly appear."

## CHAP. V.

### *Of* HERETICKS *Impenitent and Penitent.*

OTHER Hereticks are called Obſtinate, or Impenitent, others Penitent. An impenitent one is he, who being legally convict of Hereſy before a Judge of the Faith, or having confeſſed it, will not obey his Judge, when he commands him to forſake his Error and abjure it, and give competent Satisfaction, but obſtinately perſeveres in ſuch Error. Eymer. *part.* 2. *q.* 40.

*Simancas* diſtinguiſhes between an obſtinate Heretick and an impenitent one. *Tit.* 48.

"Whoſoever believes any Propoſition to be true, and knows the contrary "Opinion to be the Catholick one, is for this Reaſon only a conſummate ob- "ſtinate Heretick. §. 7.

"There are others whoſe Obſtinacy is not fully manifeſt, but who are ac- "counted as conſummate obſtinate by the Preſumption of the Law. Every one "for Inſtance, who being capable of Reaſon, denies any Propoſition of the Ca- "tholick Faith, publickly known amongſt all the Faithful; eſpecially if he "appears to be a skilful and wiſe Perſon; becauſe he is preſumed to know "what all know, and what all Chriſtians are bound explicitely to know. §. 9, &c.

"2. He who aſſerts any Hereſy, having before taught the contrary Catholick "Truth, even tho' he errs in ſuch Propoſitions, which he was not bound ex- "plicitely to know. But however this doth not hold, when 'tis propable there "may have been Forgetfulneſs, either through Length of Time, Decay of Me- "mory, or Fooliſhneſs. §. 10. §. 11.

"3. He who for a long while perſiſts in an Error, the "contrary Catholick Truth of which he was not bound explicitely to know; §. 12.

" becauſe his perſiſting in Error is his own Fault, which he is bound to for-
" ſake under Neceſſity of Salvation, and becauſe he is negligent in his Search
§. 13. " after Truth, in which the Chriſtian Salvation conſiſts. 4. He who hinders
" the Preaching, Defence and Doctrine of the Catholick Faith, and contemns
" the Cenſures of the Church; and alſo he who ſwears he will never depart
" from his Error.

§. 15. " And although any Perſon ſhould err thro' probable Ignorance, yet if after
" legal Admonition he doth not immediately repent, he is to be accounted
" obſtinate; becauſe he is then as truly an Heretick, as if he had willingly
§. 17. " erred from the Beginning. A legal Admonition is to be judged of accord-
" ing to the Nature of the Hereſy. In Hereſies plainly condemned, that is a
" legal Admonition, if it be ſhewn to the erroneous Perſon, that the holy
" Scripture, or the Determination of the Catholick Church be contrary to his
" Hereſies. But if the Hereſy be not condemned by Name, evident Argu-
" ments ſhall be eſteem'd as a juſt Admonition; in a Word, whatever is a
§. 6. " probable Cauſe to recover the Erroneous from his Error." *Obſtinate Here-*
*ticks*, according to *Simancas*, *are to be burnt alive, and delivered over to the*
*Fire with their Mouths gagged, and their Tongues tied, that they may not offend*
*p.* 3. *t.* 14. *the little ones. For in this*, ſays *Carena*, *'tis the only kind of Piety, to be cruel,*
§. 13. *whilſt he is Impenitent.*

*p.* 92. " An impenitent Heretick is one, who will not repent of his Error, as to
" which every impenitent Perſon is alſo obſtinate. So that if his Hereſy be
" plainly proved, and he will not confeſs his Error with a pure Heart, nor
" readily abjure his Hereſy, and ſubmit to the Penance enjoined him, he is
" to be left to the ſecular Judge as obſtinate and impenitent, although he pro-
" teſts a thouſand times over that he was and is a Catholick, and is reſolved
§. 27. " to live and die in the Chriſtian Faith. So that the Impenitent is the ſame
" that others call Negative; and if ſuch a one be convicted to have ſaid or
" written any Hereſy, it ſignifies nothing, though it be proved that he was
" a Catholick before, or after, and every time elſe, unleſs he will return to
" the Church, and ſubmit to his Penance."

But *Simancas* gives a different Account, *viz.* That a Perſon may always re-tract his Confeſſion before the Tribunal of the Inquiſition, and that his laſt Confeſſion only is to ſtand, from whence 'tis to be concluded, whether he be a penitent or impenitent Heretick. If he perſiſts in his Confeſſion, and ſubmits himſelf to the Church, he is penitent. If he retracts his Confeſſion, he is accounted and puniſhed as an Impenitent. His Words are plain. " In the
*Tit.* 13. § 14. " Proceſs of the holy Inquiſition, the guilty Perſon may retract his Confeſ-
" ſion when and how he pleaſes; and although he gives no probable or ſuffi-
" cient Reaſon, his Retractation is to be admitted; and his laſt Confeſſion is
" to ſtand, whether it be for or againſt him; for by this 'tis to be determi-
" ned, whether the Criminal be penitent or impenitent. And this is the
" Courſe of the Law."

If it ſhould happen that any one ſhould confeſs through Fear of Puniſhment, yet he muſt not aſſert his Innocence, upon Pain of being again delivered to

the

the Inquiſition, and puniſhed as Impenitent. So that 'tis not lawful ſo much as to mutter any Thing againſt the Judgments of this holy Tribunal, tho' they are unjuſt. This *Simancas* plainly teaches. " He who is reconciled to §. 25.
" the Church, and ſays he never was an Heretick, but that he confeſſed
" Things he never committed, through Fear of falſe Witneſſes, is to be pu-
" niſhed as an Impenitent, unleſs he repent. This is upon Suppoſition that §. 26.
" he hath not ſatisfied the Penance enjoined him; for if he hath performed it,
" he is rather Raſh than Impenitent. Now raſh Perſons are to be puniſhed
" according to the Pleaſure of the Judges, and ſometimes to be ſcourged and
" threatned with more grievous Puniſhments, if they afterwards fall into the
" ſame Raſhneſs." *Zanchinus* treats more diſtinctly of ſuch Perſons. " If *de hæret.*
" any one, after having confeſſed his Error, and receiv'd Sentence of Penance, *cap.* 23.
" retracts his Confeſſion, and ſays that he confeſſed through Fear of Charges,
" or ſome greater Puniſhment, he appears by this his Retractation not to have
" been really but feignedly converted, and is therefore to be puniſhed as an
" Heretick; and if he hath abjured in his firſt Confeſſion, he may be looked
" on only as a feigned Relapſe; but if he perſiſt in his Denial, he may be con-
" demned as an obſtinate Heretick."

In the mean while, that they may not appear to be the Defenders of any unjuſt Sentence, they allow innocent Perſons, who, wearied with Impriſonment, and through Fear of Death, have confeſſed Crimes they never committed, to have their Cauſe reheard before the Inquiſitors, but with ſuch a Limitation, as is enough to deter the moſt innocent Perſon in the World, which *Simancas* thus deſcribes to us. " An innocent Perſon, who, through *Tit.* 13.
" Fear of Witneſſes, and wearied out with Impriſonment, confeſſes he hath §. 27, 28.
" been an Heretick, if he can prove his Innocence, ought not to neglect his
" Reputation, but to have the Cauſe heard over again by the Inquiſitors. But
" if he can't refute the Witneſſes, nor juſtly retract his Confeſſion, he ought
" to confeſs that Sin to his Pariſh Prieſt, and do nothing more, leſt ſomething
" worſe ſhould happen to him;" *i. e.* leſt he ſhould be diſmiſſed as an Impenitent, and delivered over to the ſecular Court.

Beſides theſe, there is another Kind of Impenitents, *viz.* ſuch who have profeſſed their Hereſy, but don't obſerve the Penance enjoin'd by the Inquiſitor. Such are thought to be but feign'd Converts, and therefore Impenitent. Thus *Simancas*. " Thoſe who don't ſatisfy the Penance enjoin'd them, *Tit.* 48.
" ought to be puniſhed as impenitent, perjured, and feigned Converts. They §. 29.
" are Impenitent, becauſe they don't perform Penance; perjured, becauſe
" they violate the Oath, by which they promiſed they would obey the Com-
" mands of the Church; feigned Converts, becauſe they neither perform
" true Penance, nor remain in due Obedience to the Church." Friar *Bernard* *In voc.*
*Comenſis*, in his Light of the Inquiſition, calls theſe Impenitent. But *Pegna* *Impœni-*
ſays, there is Need of mature Deliberation, and manifold Diſtinctions in this *tens. n.* 3.
Matter.

However, *Simancas* doth not rank them with other Impenitents, becauſe he adds, " That ſuch Impenitents are not immediately to be left to the ſecu- §. 32.

" lar Court, but they muſt be dealt with by Law till the pronouncing the " definitive Sentence. Neither are they to be rooted up out of the Catholick " Church, till they have been once and again, and ſeveral times admoniſhed " about the Salvation of their Souls, by learned, pious, and religious Men."

Eymer. p. 2 q. 40. Penitents are thoſe, who, admoniſhed by the Eccleſiaſtical Judge, abjure their Error, and give ſuitable Satisfaction at the Pleaſure of the Biſhop and Inquiſitor. Of theſe there are two Sorts: Some come of their own accord, or within the Time of Grace, without being cited, or called by Name, or having any particular Inquiſition made after them; whereas others return after being apprehended, cited, and inquiſited, and oftentimes after many Admonitions. The firſt are treated with greater Mildneſs, and are ſometimes enjoin'd a ſecret Penance, but muſt however abjure their Errors, and be bound under the Forfeiture of all their Effects to the Inquiſition, to accompliſh the Penance enjoined them. Theſe Things we have in the Council of *Biterre*, cap. 5. *To ſuch who confeſs within the Time of Grace, voluntarily and fully, and declare they will return to the Eccleſiaſtical Unity, grant them the Benefit of Abſolution, according to the Form of the Church*, viz. *cauſing them to abjure every Hereſy that exalts it ſelf againſt the holy* Roman *Church, and the Orthodox Faith, under every Name whatſoever, and to ſwear that they will alſo preſerve and defend the Catholick Faith, which the ſaid holy* Roman *Church holds and preaches, and that they will proſecute to their utmoſt Hereticks of every Kind, convicted as well as condemned, their Believers, Receivers, Defenders and Abettors, by ſeeking after, accuſing and ſeizing them, or at leaſt, by faithfully diſcovering them to the Inquiſitors, or other faithful Perſons, who have better Inclination and Ability to apprehend them: And that in whatſoever Reſpect they are or ſhall be found to have offended in the ſame Crime, they ſhall abide by the Commands of the Inquiſitors and Church, and receive and fulfil the Penance which at any time they ſhall enjoin them, and ſhall ſolemnly bind themſelves thus to receive and fulfil it, under Penalty of forfeiting all their Effects to the Inquiſition and Church.*

*fol.* 416. *verſo.* In the ſame Council, towards the End, there is very ſtrict Command, concerning the giving this pecuniary Caution. *As to ſuch who return of themſelves, without being accuſed by others, let the Inquiſitor take diligent Care, that they give Money Security, after they have ſworn to ſtand preciſely by the Commands of the Church, and to obſerve and obey them. Afterwards let a private Penance be enjoined them at the Pleaſure of the Inquiſitor, and thus returning, let them be abſolved and diſpenſed with.* *Clement* IV. in his Bull, *Licet ex omnibus*, commands the Inquiſitors to look to it very carefully, that they be not deceived by a feigned Converſion. *But if any of the aforeſaid Perſons will wholly abjure their heretical Pravity, and return to the Eccleſiaſtical Unity, grant them the Benefit of Abſolution according to the Form of the Church, and enjoin them the uſual Penance, being particularly careful, that they do not fraudulently return by a feigned Converſion, and thus deceiving you, or rather themſelves, wear the Wolf under the Appearance of the Lamb.*

As to thoſe who do not voluntarily return, the Penance enjoin'd them is more ſevere, for they are accounted convict, and in ſome Meaſure forced. There is no particular Account to be given of their Penances, which are left to the Plea-

Pleaſure of the Inquiſitors. The Manner they are herein to obſerve, we have in the Council of *Narbonne*, *cap.* 5. in theſe Words. *This we ſtrictly enjoin in this Manner, becauſe we would not have you enjoin all the Penances aforeſaid every where, or ſubject all Perſons to all of them, but that you ſhould cautiouſly and wiſely diſpenſe them according to the Diſcretion given you by the Lord; according to the Nature of the Offences, Perſons, Places, Times, and other Circumſtances, ſo that whether you puniſh or pardon, the Life of Offenders may be amended; or at leaſt that it may appear who walks in Darkneſs and who in Light, and who is truly penitent, and who a pretended Convert, that from hence there may be no Scandal to true Catholicks, nor under Pretence of Scandal, nor any other Way, as far as lies in your Power, by which Hereſy may either be defended or nouriſhed.*

But if there be a great Number of Penitents, the Council of *Taracon* hath decreed, that a prudent Judge may uſe ſomewhat of Moderation. *Likewiſe if the Number of Hereticks, or their Believers be large, and they are ready to abjure their Hereſy, a prudent Judge may inflict Canonical Puniſhments on them, whether greater or leſs, according to the Proviſion of the Apoſtolick See, and thus avoid the Puniſhment of Intruſion *. Or if the Number be not ſo very large, a prudent Judge may uſe Moderation according to his Diſcretion, as to the Believers in Hereticks, after having conſidered Circumſtances. Provided always, that perfect Hereticks, or thoſe who dogmatically affirm their Hereſies, or Believers of them being relapſed into ſuch Belief, after having abjured or renounced Hereſy, ſhall be perpetually impriſoned, after having fully abjured their Hereſy, and Abſolution from Excommunication, that there they may ſave their Souls, and may not corrupt others.* Bzov. *a.* 1242. §. 4.

Finally, alſo the Council of *Narbonne* hath provided, *c.* 18. that none recovered from Hereſy, if they had been greatly culpable, ſhould be admitted to any Religion; in theſe Words: *And leaſt ſuch Perſons ſhould corrupt the Simplicity of Religion, let none of the aforeſaid Criminals enter into any Religion whatſoever, without the Leave of the Lord Pope, or his Legate. And if any ſuch ſhall have entered without their or your Leave, after the Inquiſition againſt them hath been begun, or even before, without having confeſſed, and being canonically abſolved, recal them.* Laſtly, 'tis required that ſuch as are reconciled, ſhall confeſs the ſame Crimes to their own Pariſh Prieſt, after they have been judicially abſolved by the Inquiſitors; which is alſo provided by the *Madrid* Inſtruction: *After the Penitent ſhall have been judicially abſolved, let the Prieſt ſacramentally abſolve him.* *a.* 1561. *cap.* 71.

But they will by no Means allow ſuch to be received, who, after a long Time, and frequent Admonitions and Exhortations, ſcarce ſeem capable of Converſion, and eſpecially if they appear ſo, at that Inſtant of Time, when they are to be deliver'd over to the ſecular Court; becauſe the Fear of Death ſeems rather to induce them to ſeek Mercy, than the Love of Truth. Nor ſuch who by Commands, Threatnings, Puniſhments, Rewards, ſworn Promiſes, or any other the like Ways, endeavour to perſuade any to Hereſy, or obſtinately to defend any Hereſy they may have embraced. Nor finally ſuch, who have perſuaded, or endeavoured to perſuade, Kings, Princes, the Queen, or

* *Intruſio* is a Perſon's thruſting himſelf into the Poſſeſſion of ſomething to which he hath no legal Right.

the

the Sons and Daughters of Kings, to embrace Hereſy. *Simancas* gives the Reaſon: "Becauſe ſuch a one is to be left to the ſecular Judge without Mercy, as having added High-Treaſon to Hereſy, by endeavouring to deſtroy, with the moſt aggravated Crime, the Soul of the Prince, and thereby in Conſequence of the whole Common-wealth. Kings alſo themſelves may eaſily be perverted by Means of ſuch Women; and if ſuch are guilty of High Treaſon, who violate their Chaſtity, much more thoſe who cauſe their Souls to commit Adultery."

*Catbol. Inſtit. tit. 47. §. 68, &c.*

As to the Heirs of penitent Hereticks, there is a Decree of the Council of *Biterre*, determining what they are obliged to. *You ought to require a ſuitable Satisfaction from the Heirs of ſuch, who having confeſſed and being reconciled, have died without Penance, that ſo great a Crime, publickly confeſſed in Judgment, may not go unpuniſhed in any. Let the ſame be done to thoſe who having received Penance, have died without performing it, or delay'd to do it, or who have obliged themſelves to fulfil it, under Forfeiture of their Effects, or who have been commanded to tranſport themſelves.* *Alexander* IV. in his Conſultations agrees with this, ſaying, *Moreover, ſome, as you add, have bound themſelves to the Inquiſitors, under Forfeiture of all their Effects, to receive Penance from them, and fulfil it for their heretical Offences, who, after being enjoined it, have died without performing it, or rather having neglected it wholly, or in part. 'Tis therefore asked, Whether the Inquiſitors themſelves, or thoſe who ſucceed them, may force the Heirs or the Poſſeſſors of the Goods of ſuch deceaſed Perſons, to make Satisfaction for them? To which we anſwer, That if by ſuch Penance, any Obligation profitable to Salvation, ſhall have been laid, for which the temporal Effects are to be anſwerable, the Inquiſitors may force the Heirs to fulfil it, or ſuch other Perſons to whom the Effects may come under ſuch Obligation.* But they can by no Means be forced to undergo thoſe perſonal Puniſhments that Hereticks themſelves muſt ſuffer if they return. Hence *Guido Fulcodius*, in his Conſultations, anſwers, *That he believes ſuch as are abſolved by the Inquiſitors, and die before they have performed their Penance, are reſerved for Purgatory, and that nothing farther is to be laid upon their Heirs.* *Alexander* IV. alſo anſwers: *There are others alſo who have confeſſed in Judgment their Hereſy, before the Inquiſitors of heretical Pravity, and died before they have been enjoined Penance. We anſwer, That inaſmuch as they did not die Hereticks, but rather incorporated into the Unity of the Church, we do not ſee that Satisfaction for a Crime extinct is to be required from them after Death, or from their Heirs who ſucceed to their Eſtate. But in the Caſe where Heirs are not admitted to inherit for the Fault of their Predeceſſors, if Death ſhould happen between the Sentence declared, and the Confiſcation of their Effects, ſuch Confiſcation muſt take place after Death, notwithſtanding it did not whilſt the Criminals lived.*

*Tr. tr. fol. 417.*

*Zanchinus* explains theſe Things more diſtinctly and briefly. "A threefold Puniſhment deſcends to the Children of a Perſon condemned as an Heretick. The firſt is the Forfeiture of Effects, becauſe they are abſolutely deprived of paternal Succeſſion. The ſecond is, their Incapacity to ſucceed any of their Relations, or other Perſons whatſoever, either by Will or without one. The third, their Inability to enjoy any Eccleſiaſtical Bene-

*Sup. 28. 2.*

"fice,

" fice, or even publick Office. As to other Puniſhments inflicted on Here- Cap. 28. 3.
" ticks, their Children are exempted from them. As to the Children of
" ſuch who return, and are received to Mercy, though once Hereticks, and
" theirs who have been ſuſpected, but died with Purgation enjoined them, or
" not, theſe Puniſhments are not to be inflicted on them. The third Puniſh-
" ment only is to be laid on the Children of Perſons ſuſpected of Hereſy, be-
" cauſe of their favouring, defending and receiving it, if their Parents die
" ſuch. But if they die after being received to Mercy, and Penance enjoin'd
" them, even this Puniſhment doth not paſs to their Children, whether they
" have accompliſhed their Penance or not.

" As to the penitential Puniſhments, ſome are of ſuch a Nature, as that
" they may be fulfilled by others; particularly pecuniary ones; ſuch as the
" building a Church or Hoſpital, the giving Portions to poor Girls, the pay-
" ing a Fine, the returning of Uſury. If any one dies before the Accom-
" pliſhment of ſuch Penance, his Children and Heirs are obliged to fulfil it.
" Others are perſonal, ſuch as to pray, faſt, hear Divinity, to hear Maſs
" every Day, to abjure their Error, and be confeſſed every Week. Theſe
" cannot paſs to the Children or Heirs, but are reſerved for Purgatory."

*Pegna* agrees with this Account. " The Heirs of ſuſpected Perſons, Fa- *Direct. In-*
" vourers of Hereticks, *&c.* cannot be compelled to perform the perſonal *quiſ. p.* 3.
" Penance enjoined a ſuſpected Perſon, but not accompliſhed by him. But *q.* 120.
" they may be compelled to accompliſh the Penance enjoined him when *com.* 169.
" living out of his Effects. If therefore it was enjoined him to build a Church Cap. *Accu-*
" or Hoſpital, to return Uſury, and the like, and his Eſtate was bound to *ſatus* §.
" accompliſh this Penance, to whatſoever Succeſſor or particular Perſon ſuch *ſi vero.* de
" Eſtate ſhall devolve after his Death, it muſt come to him under ſuch Obli- *hæret.* l. 6.
" gation." The ſame is provided for alſo by the Council of *Biterre*. *Let the* Cap. 19.
*ſame take place with reſpect to thoſe, who die without fulfilling the Penance enjoined them, if they have delayed it, or bound their Eſtate for Performance of it.*

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## CHAP. VI.

### *Of Arch* HERETICKS.

AMongſt Hereticks there are ſome Arch Hereticks, ſuch who have in- *Direct.*
vented and broached Hereſies, or taught them others when invented, *part.* 2.
and ſo become themſelves the Maſters of Error. Theſe are uſually called *qu.* 39, 40.
Dogmatiſts or Dogmatiſers, and antiently perfect Hereticks. If ſuch as theſe will be converted, the Council of *Biterre* hath thus determined concerning them. Cap. 16. *Let perfect Hereticks, or convicted ones, be ſecretly examined before certain diſcreet and faithful Men, perſuading them, according to their Duty, to Converſion, and to ſuch as are willing to turn approve themſelves favourable and kind, becauſe by*

*ſuch*

*such much Light will be spread, and great Advantage will accrue; and mitigate their Penances according to the Nature of their Converſion and Merit, or ſhew them Regard, as you ſhall think proper and convenient.* Thus alſo the Council of *Tarracon*: *But let perfect Hereticks, and Dogmatiſers, if they will be converted, after Abſolution and Abjuration, be ſhut up in perpetual Impriſonment.* Hence in the Sentence of *Peter Auterius*, a Doctor of the *Albigenſes*, we read: *Saving however, and retaining, that if thou wilt turn from this Sect and Hereſy, and be converted, and return to the Eccleſiaſtical Unity, thy Life ſhall be ſaved: reſerving however to our ſelves full and free Power of enjoining thee a Puniſhment and wholeſome Penance for the Things thou haſt done in thy former Sect and Hereſy.*

*Lib. Sent. Inquiſ. Tholoſ. fol.* 40.

The Reaſons they aſſign, why they receive to Penance penitent Arch Hereticks, or Dogmatiſts, are theſe. Becauſe, if they are converted, and preach to thoſe they have deceived, they may eaſily convert many of them. Add to this, that as they beſt underſtand the Errors and Deceits of Deceivers, which they themſelves have taught, they can more eaſily refute them by Writing or Talking. And finally, becauſe Dogmatiſts, truly converted, and openly penitent, are as it were a clear Mirror of Repentance and Humility, into which Sinners may look and be converted, and be preſerved in their Duty. This is eſpecially to be obſerved, when an Arch Heretick is of great Authority, for his Doctrine and Dignity, and who therefore, it may be hoped, will convert many by his Authority. And thus *Berengarius* was heretofore received. However, the Doctors now think, that conſidering the moſt miſerable Condition of theſe Times, in which Hereticks dare every Thing that is impious, all Arch Hereticks are to be delivered over, without Mercy, to the ſecular Court, becauſe, as *Simancas* ſays, *They deſerve to die not one Death only, but many*; and therefore he is for puniſhing them *not as other Hereticks, but with ſeverer Puniſhments, without any Compaſſion.* He farther ſays, *That the Maſters of the* Lutheran *Hereſy are by no Means to be ſpared; as being tainted with many Vices and Crimes*, viz. *Enemies to the Church, Haters of the Saints, Violators of the divine Law, ſacrilegious Perſons, Corrupters of good Works, and therefore of all good Manners, and Subverters of Nations. And therefore* he adds, *they muſt not be forgiven, who commit ſuch wicked, abominable, and heinous Crimes.* Thus alſo, according to *Pegna*, "No Arch Heretick, though he ſhould give Proofs of a "real Converſion, ought to eſcape the Puniſhment of Death. But becauſe "the Church is kind and merciful, there is no Papal Law by which 'tis pro- "vided, that Dogmatiſts ſhall, without Diſtinction, be delivered over to the "ſecular Court. Yea, the contrary may be gathered from Cap. *ad abolendum.* "de hæret. But then eſpecially are Arch Hereticks to be received, when "they come, without any Inquiſition after them, or being cited or called by "Name, but of their own Accord, to confeſs their Sin, and implore Mercy. "But when they are received, he will have very heavy Penances enjoined "them, which ought not to be mitigated, but after a long Seaſon, and the "moſt evident Signs of true Repentance, Converſion and Humility.

*tit.* 47. §. 54. §. 71. §. 63.

CHAP.

## CHAP. VII.

### *Of the Believers of* HERETICKS *and of* SCHISMATICKS.

FUrthermore, there are ſome who are Believers, others who are Receivers, ſome Defenders, and others Favourers of Hereticks. The Believers of Hereticks are, ſome of them, they who believe their Errors and Hereſies. Such are excommunicate. Others are judged to believe the Errors of Heretieks, from their Words or Actions. By their Words, *viz.* by their own Confeſſion, when they ſay they believe ſuch an one's Errors. Or by the Evidence of the Fact, *viz.* by publickly preaching or defending their Errors. Or by legally producing Witneſſes, by whom they are convicted of divulging ſuch Errors. As to Facts: In the Beginning of the delegated Inquiſition, it was much doubted by what Facts any Perſons could be judged to be Believers of Hereticks. But the Council of *Narbonne* hath determined it. Cap. 29. *Amongſt thoſe Faults by which they may be judged to be Believers of Hereticks, theſe, to prevent your farther Doubt, we firmly think to be ſuch,* viz. *if they have done Reverence to Hereticks, or, as believing them, have implored their Prayers, declared them to be good Men, and have thus as it were adored them. If without any Deſign to betray or ſeize them, or any other excuſable and commendable Cauſe, they have been preſent at their Conſolation, when they falſely and deceitfully pretend, that they ſave him by the Impoſition of Hands, whom they comfort, though hereby they make him an Heretick. Or at their Service, when they imagine that their Principal, holding an open Book in his Hand, gives them Remiſſion of their Sins, as in a general Confeſſion. Or at the Supper of the* Valdenſes, *when, on the Day of the Supper, the Table is ſet, and the Bread placed on it, and he believes, according to their damnable Sect, that when one of the* Valdenſes *bleſſes it, and breaks it, and gives it to thoſe preſent, he makes the Body of Chriſt. If they confeſs their Sins to the ſaid* Valdenſes, *as a Perſon uſes, and ought to confeſs to his proper Prieſt. If they knowingly and damnably receive from Hereticks or the* Valdenſes *Peace, or Bread bleſſed by them, ſent or given them by any one whatſoever. If they have believed that they may be ſaved in their Sect, or that they are good and holy Men, or the Friends or Meſſengers of God, or of good Converſation and Life. Or that their Perſecutors ſin. Or if they have ſo far praiſed them, or by any other Sign or Word have profeſſed that they give them Credit or Belief, in a Caſe of Law or otherwiſe. If they have willingly and oftentimes received them, heard them, viſited them, gave them, or ſent to them Proviſion or other Things; or have learnt Prayers, Epiſtles or Goſpels from them. Theſe Things and the like, although they will not prove ſingly, yet will be of great Service; eſpecially as St.* John *hath ſaid in his Epiſtle,* If any one comes to you, and brings not this Doctrine, receive him not into your Houſe, nor bid him God ſpeed; for he who bids him God ſpeed, partakes of his evil Works. *But we would have all theſe Things to be ſo underſtood, as to intend that ſuch who ſhall be found thus culpable, did know the Perſons by whom theſe Things were done to be Hereticks and* Valdenſes; *and that holy Church doth declare them ſeparated from the Unity* Direct. p. 2. q. 50.

*of the Catholick Faith for their own Errors, and their damnable Sects, and doth excommunicate, perſecute, and damn them. Nor is he lightly to be believed, who ſays he was ignorant of it.*

Qu. 34. By this Decree any Facts are made Signs, by which a Perſon may be judged to be a Believer of Hereticks. But becauſe no Inference can be made concerning any Man's Faith with equal Certainty and Strength from every one of theſe Facts, the Popiſh Doctors make uſe of a Diſtinction. For, ſay they, there are ſome Facts in which the Error is manifeſtly expreſſed, which cannot by any Means be taken in a good Meaning; *viz.* to do Reverence to them according to their Cuſtom, and to receive the Communion from them after their Manner. Theſe Things demonſtrate a Perſon to be an Heretick, and he may be proceeded againſt as ſuch. For they ſay the Plea can hardly be allowed, that he did theſe Things for the ſake of ſome temporal Profit, and not out of any real Error of Mind. There are other Things which occaſion violent Suſpicions: As when any one defamed for, or ſuſpected of Hereſy, ſeeks Conſolation from Hereticks, according to their Manner at the Time of Death. If any one doth this, the Law preſumes him an Heretick, and againſt this Preſumption no Proof can be regularly admitted. Other Things there are, in which there is no Appearance of any heretical Rite, ſuch as to viſit Hereticks, give them Food, accompany them, defend their Perſons, and the like. Theſe Things demonſtrate no Man to be an Heretick, but only render him ſuſpected of Hereſy.

Amongſt others Signs by which the *Valdenſes* may be known, is the Refuſal of an Oath, when they are compelled to it by the Inquiſitors; becauſe they hold every Oath in every Caſe to be unlawful. Thus we read, *If any of them, thro' a damnable Obſtinacy, refuſe the Solemnity of an Oath, and will not ſware, from this alone they are to be accounted Hereticks.*

Cap. Excom. itaq; Extra de hæret §. *Adjicimus.*

There are other Believers of Hereticks, concerning whom 'tis not evident that they believe their Errors, but who appear to believe the Words, Commands, and Works of Hereticks. Such are they who commit thoſe Facts in which there is no Appearance of any infidel Rite; who go and come at their Command, hear, tho' ſeldom, their Sermons, carry their Letters here and there, wait on them, receive their Books without burning them, carry them Proviſion, afford them ſafe Conduct, viſit them, and do other Things in which there is nothing of any heretical Cuſtom.

Such are neither looked on nor treated as Hereticks, though they bring themſelves under Suſpicion greater or leſs, in Proportion, as the Appearances are greater or leſs. Wherefore they deal with them as with ſuſpected Perſons, of whom afterwards. 'Tis here enquired, whether a Perſon, who hath heard the Sermons of Hereticks, once or twice, ought to be accounted for a Believer of Hereticks. The common Opinion is, that he ought not to be accounted ſuch for once or twice hearing the Sermons of Hereticks, unleſs he hath done it oftener. However, they diſtinguiſh. If any Catholick, living in the Country of Hereticks, goes once or twice to their Sermons, he is not to be judged to be a Believer of them. But if in Catholick Countries he knows

that

that Hereticks hold private Conventicles, if he goes to them but once, he will incur the Suſpicion of believing them, unleſs he diſcovers it to the Biſhop or Inquiſitor. Becauſe in this latter Caſe he is judged to approve what he might have prevented, if he had made a Diſcovery to the Eccleſiaſtical Judges, as he ought to have done.

Schiſmaticks have a very near Agreement with Hereticks, and they are thus diſtinguiſhed by *Simancas*.

" Schiſmaticks are either conſummate Hereticks, or near akin to Here- *tit.* 58.
" ticks, *viz.* who only depart from the Unity of the Church, and the Obe- §. 4, 5.
" dience of the chief Pontiff. Theſe differ but little from Hereticks. For
" they believe that there may be Salvation and true Sacraments without the
" true Church, and many other ſchiſmatical Things. Theſe are to be pu-
" niſhed with almoſt the ſame Puniſhments as Hereticks themſelves.

" Others are without Blame, and have a juſt Excuſe; *viz.* they who, thro' §. 9.
" probable or inſuperable Ignorance, believe a Perſon to be Pope who is not
" rightly elected; which ſometimes happens upon a doubtful Election, when
" two or more contend for the Pontificate. One of theſe may, with a good
" Faith, be owned for true Pope, though not juſtly elected." After *Simancas* hath thus explained the Matter, he pronounces a cruel Sentence againſt the modern Hereticks, *i. e.* againſt all in this Age, who live without the Communion of the Church of *Rome*, in *Germany*, *France*, the *Netherlands*, and ſome other Northern Countries.

" The modern Hereticks are not united. There are many Schiſms amongſt §. 12.
" them, ſo that in one Houſe you may find ſeveral Beliefs, the Huſband,
" Wife, Children, and Family, all believing differently.

" Againſt theſe impious Fanaticks, who endeavour to defile all divine
" Things, the Laws riſe up with revenging Fire. Theſe peſtiferous Here- §. 14.
" ticks are driven out of *Spain*, who rejecting all that antient Diſcipline,
" which the holy Spirit taught, which ſo many Ages, the Conſent of ſo ma-
" ny Nations, ſo many great Men, famous for their Piety and Learning, have
" delivered down to us, inſtead of retaining the true Method of governing
" the Chriſtian Commonwealth, throw all Things into Diſorder, and more
" than *Babyloniſh* Confuſion."

The Puniſhments of Schiſmaticks are Privation of Eccleſiaſtical Power, Carena, Excommunication, Incapacity for all Offices for the future, and finally Death. *p.* 2. *t.* 3. And the Doctors obſerve, that when Schiſmaticks are impenitent, the ſecular §. 12. Judges may in ſuch Caſe puniſh them, if Clergymen, without degrading them. They add, that all Lords and Magiſtrates, as well Eccleſiaſtical as Secular, *n.* 49. who fall into or raiſe Schiſm, ought to be puniſhed likewiſe with Death; according to the Bull of *Paul* IV. beginning, *Cum ex Apoſtolatus officio*, in which the Pope commands that all ſuch Schiſmaticks ſhall be puniſhed, even for the firſt Offence, as the very Relapſed themſelves. But if they repent, the In- §. 13. quiſitors, after a formal Abjuration of their Schiſm, and their Suſpicion of Hereſy, according to the Degrees of it, uſually puniſh them with other Pu-

niſhments at Pleaſure; either by Fines, Baniſhment, Impriſonment, Confinement, Gallies, and Death, according to the Nature and Aggravation of their Fault.

## CHAP. VIII.

### *Of the Receivers and Defenders of* HERETICKS.

*Direct. part. 2. qu. 51.*

THE Council of *Tarracon* hath determined thoſe to be Receivers of Hereticks, who have twice, or more, knowingly received Hereticks in their Houſe, or any other Place. A Receptacle is an Houſe or Lodging, where Hereticks have met together twice or more to preach or read, or where they have frequently lodged. But ſuch offend more grievouſly who know their Errors, and that the Church doth perſecute them, and nevertheleſs receive and conceal them from the Hands of the Church, even though they have done this but once; and by this Reception they render themſelves ſuſpect of Hereſy, more or leſs, according to the Difference of Circumſtances. And therefore, as ſuſpected Perſons, they are obliged to abjure. Their Puniſhment is Excommunication, and if after this they perſiſt in their Crime, they are put under the Bann, baniſhed for ever, and ſuffer Confiſcation of all their Goods. But if any one receives an heretical Relation, his Crime is leſs, and he is more gently puniſhed. And in this they conſider the Degrees of Kindred, that ſuch who are neareſt akin to the received Heretick, may be more gently dealt with than thoſe who are farther off.

*Qu. 52.*

The Defenders of Hereticks, according to the Definition of the Council of *Tarracon*, are ſuch who knowingly defend Hereticks by Word or Deed, or any Method in their own Lands, or any where elſe, whereby the Church is prevented from executing its Office in the Extirpation of heretical Pravity. Now there are different Ways of defending. An Heretick may be defended with Arms, or without them, or by giving him Notice for his Eſcape. He may alſo be defended, when under Trial, or when he is not. They may alſo be ſaid to be Defenders of Hereticks by Conſequence, who hinder in any Manner the Office of the Inquiſition. Beſides this, there is another Caſe by which a Man may be ſaid to be a Defender of Hereticks, when he puts another Perſon or himſelf in the Room of the Heretick to be apprehended. Concerning which, *Innocent* IV. ſent this Reſcript. Ad extirpanda. *If at any Time, any Men or Women not Hereticks, ſhall, with their Conſent, be taken and put in the Place of Hereticks, or themſelves perſonate Hereticks, let them ſuffer perpetual Impriſonment, and at the ſame time let the Hereticks themſelves be compelled to return and deliver up themſelves. And as for thoſe who contrived the Deceit, let them, according to the aforeſaid Law, ſuffer Confiſcation of their Goods, and perpetual Baniſhment.* In the ſame Bull there are other Sorts of Puniſhments appointed

pointed againſt the Defenders of Hereticks. *Whoſoever ſhall dare to reſcue an heretical Man or Woman, when taken, from him or thoſe who have apprehended them, or to prevent their being taken, or to hinder any one's Entrance into any Houſe or Tower, in order to ſeize or ſearch for them, let ſuch an one, according to the* Padua *Law of* Frederick *the Emperor, ſuffer Confiſcation of Goods, and perpetual Baniſhment, and let the Houſe from which they were excluded be raſed to the Ground, and never rebuilt; and let the Effects found there be his who can ſeize them, as if Hereticks had been actually found there.* Moreover, he makes their Sons infamous, and excludes them from all Honours, unleſs they diſcover Hereticks. But if they diſcover them, they are delivered from theſe Penalties. *Pius* V. alſo by a certain Reſcript, beginning, *Si de protegendis*, ordained the moſt ſevere Puniſhments againſt the Defenders of Hereticks, which they incur in many Caſes therein mentioned.

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## CHAP. IX.

### *Of the Favourers of* HERETICKS.

THE Favourers of Hereticks, as the Name ſhews, are thoſe who ſhew Favour to Hereticks, and are in all Things equal to the Defenders of them. They are either Magiſtrates or private Perſons, and they may all favour Hereticks by Omiſſion or Negligence, by Deed or Aſſiſtance, and finally by Counſel or Words. The Magiſtrates Office is to extirpate Hereticks, and expel them from his Kingdoms and Dominions, and to give all Counſel and Favour to the Inquiſitors of heretical Pravity, for the puniſhing and reſtraining of Hereticks, and the Suppreſſion of all riſing Hereſies, becauſe the Inquiſitors without the Magiſtrates Help are weak, and cannot drive away Hereticks; and therefore they muſt bend all their Endeavours to this, that the Wickedneſs of Hereticks may not encreaſe under their Government, and the Security and Religion of the Catholicks be not diminiſhed or diſturbed. The Favourers therefore of Hereticks are ſuch: Firſt, who omit to do thoſe Things concerning Hereticks, or Perſons ſuſpected and defamed for Hereſy, or thoſe who believe, receive, defend, and favour them, which they are obliged to do by Office, when required to do it by the Inquiſitors or Biſhops, or one of them, *viz.* if they do not take them up, keep them in ſafe Cuſtody, ſend them to the appointed Place, or if they don't readily puniſh them, when condemned and delivered over to them. For they are obliged to all theſe Things. Cap. *Ut Inquiſitionis*, de hæret. lib. 6. and eſpecially by a Reſcript of *Innocent* IV. and *Clement.* IV. beginning, *Ad extirpanda.* In like Manner the Prelates or Inquiſitors, who neglect to make ſafe Priſons, to ſet over them faithful Keepers, to apprehend, torture, or puniſh Hereticks, or to keep them in ſafe Cuſtody, in order to favour Hereticks, are judged to be themſelves Favourers

§. 53. Souza, *lib.* 1. *c.* 25. §. 4.

vourers of them; but not if theſe Omiſſions proceed from Negligence, or any other Cauſe. Secondly, the Magiſtrate is a Favourer of Hereticks by Commiſſion. If, when taken, he delivers them from Jayl without the Leave or Command of the Biſhop and Inquiſitor, or one of them; or if he doth directly or indirectly hinder their Proceſs, Judgment, or Sentence, or do other Things like them. As appears from the Chapter before mentioned, *Ut Inquiſitionis. §. prohibemus.* All theſe are *ipſo jure*, excommunicated, as Favourers of Hereticks; and if they obſtinately remain under this Excommunication for the Space of a Year, are to be puniſhed as Hereticks. The Council of *Tholouſe* hath appointed other Puniſhments for them. Chap. 3, 4. *We likewiſe ordain, that whoſoever ſhall knowingly permit any Heretick to dwell in his Juriſdiction, either for Money, or any other Cauſe whatſoever, and ſhall confeſs, or be convicted of this, he ſhall loſe his Eſtate for ever, and his Body ſhall be in the Power of his Lord, to do with it as he ought to do. And if he be not convicted of having done this knowingly, and his Negligence be not proved to be ſcandalous, and yet Hereticks are frequently found in his Country; or if he be defamed upon this Account, let him ſuffer the legal Puniſhments.* See alſo the Bull of *Paul* IV. beginning, *Cum ex Apoſtolatus officio. Bzovius* alſo relates, in his Account of the Year 1215. §. 10. that by the Command of the Apoſtolical Legate the Walls of *Narbonne* were thrown down; and alſo of *Tholouſe*, the greateſt Part of them, becauſe they had been the Receptacles of Hereticks. The ſame Council of *Tholouſe* determines what ſhall be the Puniſhment of inferior Magiſtrates, in their ſeveral Diſtricts, if they are found negligent in apprehending Hereticks. Cap. 6. *As to the Ballive of any Place as to which there is any Preſumption, who is always Reſident, unleſs he be found very diligent and careful againſt Hereticks, let him forfeit all his Effects, and never more be ſuffered to be a Ballive there, or any where elſe.*

Private Perſons are ſaid to be Favourers of Hereticks, when out of their own Raſhneſs they free from Priſon Hereticks, or Perſons apprehended for Hereſy, or give any Aſſiſtance, Council or Favour towards their Deliverance, or ſo accompany them, when freed, as not to ſeize them; or reſiſt thoſe who would apprehend them, or preſume directly or indirectly to hinder Proceſs, Judgment, or Sentence, in a Cauſe of Faith, or give Council, Aſſiſtance or Favour to ſuch Hindrance. Private Perſons indeed are not ſaid to be Favourers of Hereticks by mere Omiſſion, *viz.* for not apprehending or not taking them into Cuſtody, as not being obliged to it. Nevertheleſs they will be Favourers, if they ſhall omit to diſcover and apprehend them, when obliged to it by Office: Such, for Inſtance, are the Croſs-bearers, who in *Spain* are called *Familiars*; or if when called on by the Magiſtrate, to aſſiſt in apprehending Hereticks, they refuſe to do it without Reaſon, and when they have nothing to prevent them.

Laſtly, both Magiſtrates and private Perſons may be ſaid to be Favourers of Hereticks, by omitting to diſcover them, becauſe all Perſons are obliged under Pain of Excommunication, to diſcover all Hereticks, even concealed ones, to the Biſhops and Inquiſitors, and, if it be neceſſary, to accuſe them.

So

So *Gregory* IX. ordained in one of his Extravagants againſt the *Patarenes*, beginning, *Excommunicamus*, inſerted amongſt the Apoſtolical Letters for the Office of the Inquiſition. *Likewiſe if any Perſon knows any Hereticks, or ſuch who hold private Conventicles, or who differ in their Life and Manners from the Converſation of the Faithful, let him endeavour to diſcover them to his Confeſſor, or ſome one elſe, who he believes may give Notice to the Prelate, otherwiſe let him be excommunicated.* And this Obligation of informing againſt Hereticks is ſo ſtrict, that it takes place notwithſtanding any Oath, Covenant, or Promiſe to the contrary. But if the Wife only ſhould happen to know that her Husband eats Fleſh on forbidden Days, and knows him to be ſo furious, as that probably he would murther or abuſe her, if ſhe informed againſt him, ſome think her Fear may excuſe her from the Suſpicion of Hereſy. But we ſhall ſpeak more fully of the Obligation to inform in the following Book.

The Council of *Narbonne* hath determined the ſeveral Ways, by which any one may be ſaid to be a Favourer of Hereticks. Cap. 14, 15, 16. *We account thoſe equally Favourers of Hereticks, who obſtruct the Extirpation or Correction of Hereticks or their Believers, and thoſe who don't give that Aſſiſtance to it, which they can't omit without a manifeſt Fault. But ſuch Perſons may be more or leſs guilty in theſe Matters, from a careful Conſideration of Circumſtances. He, for Inſtance, greatly favours Hereticks or their Believers who conceals them, when he may, and ought to diſcover them. He favours them more, who by concealing them, or otherwiſe maliciouſly endeavours to prevent their Examination or Impriſonment, or Puniſhment. He moſt of all, who releaſes thoſe who are apprehended or impriſoned, without the Churches Leave; or if ſuch Things are done by his Counſel, Help, Command or Care. But he is above all others to be accounted guilty of this Crime, who having temporal Juriſdiction, defers to perſecute theſe aforeſaid peſtiferous Hereticks, or Perſons declared to be Rebels againſt the Church, or to extirminate them out of his Country or Province, or to animadvert againſt them without Delay. Such a one is juſtly to be ſuſpected of being joined in wicked Society with them, who neglects to put a Stop to ſo great a Wickedneſs, after having received the proper Information by the Church or otherwiſe; ſince he both may do it, and is bound to it; eſpecially if he is under the Obligation of an Oath to do it. But neither are they free from this Crime, who, when they have the Opportunity of Time and Place, and Leave to apprehend Hereticks, or the aforeſaid Rebels, and to aſſiſt thoſe who are to take them up, wickedly neglect it; eſpecially if required by thoſe who apprehend them, or are willing to do it. And ſince there are many, and almoſt unſearchable Methods of doing Harm, by which Hereticks, their Believers and Favourers endeavour to deſtroy the Vineyard of the Lord of Sabaoth, which ought to be prudently and vigorouſly oppoſed, let your Piety take Care, according to the Grace given you of the Lord, to find out theſe Evils, and apply the wholeſome Remedy; and let your Prudence make up what can't ſo eaſily be committed to Writing.*

Laſtly, Friar *Ivonetus* deſcribes the Marks and Signs, by which Perſons may be known to be Favourers of Hereticks. There is extant a Volume of his, the Fragment of which is in a Parchment Book of the *Vatican* Library, intitled, *How the Favourers of Hereticks may be diſcovered.* And he there reckons up five

five Signs in these Words. *The Favourers of Hereticks may easily be known by these five very probable Marks. First, Whoever privately visit them, whilst in Custody, and whisper with them, and gives them Victuals, are suspected of being their Disciples and Favourers. Secondly, Whoever greatly lament their Apprehension or Death, seem to have been their spiritual Friends whilst they lived; for 'tis scarce credible that any Person can be a long while intimate with an Heretick, and not know his Secrets. Thirdly, Such who complain that they are unjustly condemned, after they have been openly convicted, or have confessed their Heresy, it appears that they approve their Sect, and think the Church hath erred in condemning them. Fourthly, Such who look with a bitter Countenance upon those who persecute Hereticks, or preach vigorously against Heresy; for he who diligently observes, may see by their Eyes and Nose, and Aspect, that they do not look with a favourable Countenance, and are therefore greatly to be suspected, that they hate those against whom their Heart appears to be so bitter, as their Countenance betrays, and love those for whose Destruction they so much grieve. Fifthly, If any are found to have by Stealth gathered together in the Night the Bones of Hereticks burnt, as Reliques, 'tis not to be doubted but that they reverence them as Saints, whose Bones they lay up as a kind of Sanctuary, and are therefore equally Hereticks with them. Because no one accounts an Heretick for a Saint, but he who believes his Sect to be holy, and is equally an Heretick with him. These Things give great Presumption of Heresy against him, altho' it be not sufficient Proof to condemn him, unless there concur other Arguments, by which it manifestly appears they did the aforesaid Things in Favour of Heresy.*

C. *Excommunicamus.* §. *Credentes. Ibid. de haret.*

The Favourers of Heresy are *ipso jure*, excommunicated. If they are mere Favourers, but not publickly excommunicated, they don't incur any other Penalties. But if they are publickly declared excommunicate, and don't give Satisfaction within a Year, they suffer other Penalties, which are largely described.

## CHAP. X.

### *Of the Hinderers of the Office of the* INQUISITION.

THE Hinderers of the Office of the Inquisition come nearest to the Favourers of Hereticks, and are usually reckoned amongst them.

That this Office may be vigorously exercised, and that no Hereticks may escape the Rigour of it, all are strictly commanded, of whatsoever Dignity or Condition, especially Arch Bishops, Bishops, and other Prelates, to favour the Business of the Inquisition, and yield all Countenance and Help to the Inquisitors. Thus *Alexander* IV. in his Bull, beginning, *Orthodoxæ fidei Christianæ*, commands all Arch Bishops, Bishops, and other Prelates. *Since therefore there are certain Predicant Friars appointed by the Apostolick See, Inquisitors against Hereticks in the aforesaid Provinces, that they may carry on the Business of the Faith*

*f.* 420. *Ex. tr.*

*Faith, with a fervent Mind, and conſtant Heart, through many Tribulations and Perſecutions, we admoniſh and exhort all of you in our Lord Jeſus Chriſt, ſtrictly commanding you by theſe Apoſtolical Writings, in Virtue of your Obedience, and enjoining you, that you favourably aſſiſt theſe Inquiſitors in carrying on the ſaid Affair; and that laying aſide the Fear of Man, you effectually give them your Counſel and Help: Knowing, that thoſe who hitherto have done, and ſhall do theſe Things, ſhall always obtain the ſpecial Favour of the Apoſtolick See, and find us favourable and kind in all their Occaſions. But as for thoſe whom we ſhall know to be Contemners, beſides the divine Judgment that hangs over them, they ſhall not eſcape the Eccleſiaſtical Vengeance.*

The ſame Pope, in the Bull beginning, *Ne commiſſum vobis*, ſays, That if the Clergy and Religious ſhall not aſſiſt the Inquiſitors, according to their Duty and Ability, they ſhall be proceeded againſt according to the Canonical Sanctions, notwithſtanding any Privileges. And in the *Decretals* V. in the Chapter *Excommunicamus*, at the End, the Biſhops are commanded, under the Penalty of Depoſition, to perform all theſe Things.

But *Innocent* IV. in his Bull to the Provincial of *Lombardy*, beginning, *Tunc potiſſime*, hath threatned with all imaginable Curſes, and the moſt terrible Deſtruction, Magiſtrates, unleſs they promote the Affair of the Inquiſition, and much more if they preſume by any Means to hinder it. *Inaſmuch as we deſire above all Things to promote this wholeſome Affair, we intend, with the Help of God, wholly to remove all manner of Obſtructions from it. And therefore if it ſhould ſo happen, which however we do not believe, that any City or Community, any Princes or Nobles, or others in Power, ſhall preſume to oppoſe this Buſineſs, or by any Means to obſtruct it, ſo that thoſe who are deputed by us for this Affair cannot freely proceed therein; yea, unleſs they cheriſh it, and ſtudiouſly aſſiſt it, we ſhall ſeverely reach forth againſt them the Sword of the Eccleſiaſtical Power, to ſuppreſs ſo audacious and pernicious Inſolence, and wholly to confound it; and we will call in againſt them the Kings and Princes, and other Faithful of Chriſt, who have taken on them the Sign of the Croſs, whether for the Succour of the holy Land, or otherwiſe for Chriſt's Service, as alſo the reſt of the Catholicks, that Heaven and Earth may be moved up together againſt this deteſtable Raſhneſs; ſince 'tis no leſs expedient, but rather more ſo to defend the Faith in Places near us, than in thoſe which are farther diſtant.* The ſame Things are almoſt to a Word extant in the Bull of *Urban* IV. beginning, *Licet ex omnibus mundi partibus.* Publiſhed *An.* 1262. *April* 19th. Bzovius, *a.* 1252. §. 4.

Perſons are ſaid to hinder the Office of the Inquiſition, either directly or indirectly. Directly, ſuch who deliver from Priſon by their own Raſhneſs Perſons taken up for the Crime of Hereſy, or who deſtroy the Proceſſes of the Inquiſition, or who wound the Witneſſes in a Cauſe of Faith for their Teſtimony. Or if a temporal Lord ordains, that no one ought to take Cognizance of the Crime of Hereſy but himſelf, and that no one ſhall be accuſed, or give Teſtimony but before himſelf. As alſo all ſuch, who uſe only Threatnings and terrifying Words; and who directly hinder Proceſs, Judgment, and Sentence in a Cauſe of Faith, or give Counſel, Help and Favour in doing thus. *Direct.* *Inq. p.* 2. *qu.* 54. Carena, *p.* 2. *t.* 4. *n.* 23.

They are ſaid indirectly to obſtruct, who uſe any Inſinuation or other Means, from whence conſequentially any Impediment may ariſe to the Office of the Inquiſition. Such for Example, who order that no one ſhall bear Arms, unleſs of the Houſhold of the temporal Lord, and that no one ſhall apprehend, or cauſe to be apprehended any Perſon, but the temporal Lord. For from thence it follows, that thoſe who belong to the Inquiſitors can't wear Arms, nor take up any Perſon. Theſe are leſs criminal than the former; but are all excommunicated; and if they lie under that Excommunication for a whole Year, they muſt, in order to their Reconciliation, abjure ſuch Impediment and Favouring, otherwiſe they are delivered over as impenitent Hereticks to the ſecular Arm.

The Power of proceeding againſt ſuch Perſons, was given to the Inquiſitors by *Urban* IV. and other Popes, in a Reſcript to the Inquiſitors of heretical Pravity, beginning, *Præ cunctis*, where, amongſt other Things, there are theſe. *But if, what we do not believe, there ſhould happen to be any, of what Condition ſoever, who ſhall oppoſe this Affair committed to you, or ſhall preſume in any wiſe to obſtruct it, ſo that you cannot freely proceed in it; yea, unleſs, when required, they ſhall ſupport it, and, according to their Office and Ability, give it their Aſſiſtance; proceed without Fear, in Dependance upon the ſaid Authority, according to the Canonical Sanctions, againſt ſuch Perſons as againſt Favourers and Defenders of Hereticks.* See alſo Chapter *Ut Inquiſitionis.* §. *Prohibemus.* lib. 6.

Nor are there wanting Examples of an Inquiſition actually made, not only againſt private Perſons, but alſo againſt Magiſtrates, yea, whole Cities and Communities, on the Account of their hindring the Inquiſition. *Bzovius* relates a memorable Inſtance, which happened in the Territory of *Parma*, about the Year 1285. from a Letter of *Honorius* IV. brought to the Biſhop of *Parma*, in which there are theſe Things. "Friar *Florius* a Pre-
"dicant, Inquiſitor of heretical Pravity in the Parts of *Lombardy*, deputed
"by the Apoſtolick See, condemned a certain Woman, relapſed into Here-
"ſy, after Abjuration, who being delivered to the ſecular Court, was burnt.
"But ſome Perſons, who were met together in the Place where the ſaid
"Woman was burnt, and a great Number of others, who flocked from the
"different Parts of the City, ran in a violent Manner to the Place of the
"Friars of the ſaid Order, and forcibly enter'd the ſaid Place, and broke
"open the Church Doors, deſtroyed the Houſes with Stones, and preſumed
"to enter by Violence the little Chapels of the ſaid Place, and unjuſtly plun-
"dered the ſaid Friars of their Books, Garments and Effects, and beat and
"wounded ſeveral of them, one of whom, after a few Days, died of the
"Wounds he had received; ſo that the Friars were forced to leave the Place.
"And becauſe the Governor and Magiſtrate neglected to proceed to the
"Puniſhment of that Crime, according to their Office, they were cited by
"the Biſhop of *Oſtia* perſonally to appear before him at a certain Place and
"Time. They appeared; but becauſe there was no proper Syndick for
"the aforeſaid Community, who appeared before him, according to the
"Form

" Form of the ſaid Citation, he publiſhed the Sentence of Excommunica-
" tion againſt them, and put the City under an Interdict. After this the Go-
" vernor and Magiſtrate deſired that the Sentence of Excommunication and
" Interdict ſhould be taken off, and promiſed that they would obey the Plea-
" ſure of the Church; and that they would give ſufficient Security upon
" Oath, and Sureties, to ſtand to the Law for all the aforeſaid Enormities,
" Offences and Injuries. This Security was accepted, and upon the Ap-
" pearance of the proper Sureties for the aforeſaid Community, each Perſon
" being bound in a thouſand Marks of Silver, that they ſhould obey the
" Commands of the Church, the Sentence was remitted, and they themſelves
" ſummoned to appear within the Space of one Month before Pope *Martin* IV.
" by themſelves, or their Syndicks, or their Procurators, ſufficiently inſtructed
" for this Purpoſe, in order to obey the Pope's Command for theſe Exceſſes,
" and to receive what in Juſtice was to be exacted of them. They appeared
" within the ſaid Term before the Pope, but there was no farther Proceſs
" made upon the ſaid Affair. So that *Honorius* IV. commanded the Biſhop
" of *Parma* to cite them again before him, to obey his Orders, and to re-
" ceive what in Reaſon ſhould be appointed them. What was the Event of
" this Proceſs, and what was the Puniſhment inflicted upon the Magiſtrate,
" *Bzovius* doth not relate."

We have another Inſtance in the Book of the Sentences of the *Tholouſe* In- *Fol.* 138.
quiſition. Certain Perſons were thrown into the Priſon of the Inquiſition at *Cordes*, in the Territories of *Tholouſe*. The Magiſtrate and People roſe up againſt the Biſhop of *Viviers*, and the Inquiſitors, and by ſeveral Methods obſtructed the Office of the Inquiſition. The Sentence of Excommunication was pronounced againſt them. At length the Magiſtrates and principal Perſons threw themſelves in a very humble Manner before the Inquiſitors at a general Sermon of the Faith, ſubmiſſively confeſſing their Fault, and begging Pardon for their Offence. They ſubmitted themſelves purely and entirely to the Will and Order of the Inquiſitors, declaring that they were ready to make Satisfaction, and to receive and do Penance, ſuch as they ſhould think fit to enjoin them. They pray to be abſolved from the Sentences of Excommunication, and promiſe that they would be devoted, and perſevere in their Devotion and Reverence and Obedience to the Inquiſitors, their Succeſſors, and the Office of the Inquiſition all the Days of their Life. This ſo humble a Supplication, moved the Minds of the Inquiſitors to Mercy, ſo that tho' the Magiſtrates and People had grievouſly offended againſt the Biſhop of *Viviers*, the Inquiſitors and their Office, and were therefore worthy of the ſevereſt Puniſhments, yet in Conſideration of their Humiliation and Supplication, they abſolve them from the Sentences of Excommunication; but under this Penance, that they ſhall build a Chapel in their City, with Ornaments, and all other Requiſites, to perform divine Service, and ſhould farther erect three Images over the Door of the Chapel, one of the Biſhop of *Viviers*, and the other two of two Inquiſitors. And finally, they reſerve to themſelves the Diſpoſal of certain particular Perſons of the ſaid Community, to the Number of ſix or

eight, whom they would call by Name that Day or the following, whom, as the principal Offenders, they would enjoin wholesome Penance; and they oblige the whole University, and every Person thereof, that they and every one of them shall satisfy the Bishop and Church of *Viviers*, as also the Office of the Inquisition and the Inquisitors, and all Persons belonging to them, and pay the Expences they have been at upon account of the said Affair.

In the same Book of Sentences there are two other Instances of Inquisition made against private Persons for hindring the Office of the Inquisition.

The first is that of Friar *Bernard Delicioſi*, who was accused, that, as the principal Director, he had prosecuted the Complaints of the Cities of *Carcassone*, *Viviers*, and *Cordes*, having procured for this Purpose a large Sum of Money from the said Places, and by the Sale of his Books, and by Borrowing; that he had spoken very freely of the Processes and Sentences of the Inquisitors published against certain Persons for Heresy, in the most publick Conversations and elsewhere, even in the secular Courts; that he had justified Persons apprehended and condemned for Heresy, and said, That *though they were true Catholicks, they were forced by the Violence of their Tortures to confess themselves and others guilty of Heresy, and that they were unjustly condemned*; and hereby excited the Magistrates and People to oppose the Bishop and Inquisitors: That he also publickly asserted at *Tholouse*, *That St.* Peter *and St.* Paul *could not defend themselves from Heresy if they were alive, and had Inquisition made against them in the Manner practised by the Inquisitors*, and that he thus informed the King of *France* against the said Inquisitors: That he falsely ascribed to the Inquisitors an Instrument drawn up against the City of *Carcassone* upon the Affair of Heresy, and made this an Argument of exciting the People, that they might see what these Predicants would be able to do against particular Persons, who could make so false and pernicious an Instrument against a whole Community: That by this Means he hindred the Office of the Inquisition, raised a Sedition and Rebellion, and did many other Things, by which the Exercise of the Office of the Inquisition was obstructed: That moreover, after having taken the Advice of many Persons, at several Times, and in different Places, he had been deputed by the Magistrates of *Carcassone*, to the Lord *Ferrand de Majoricis*, and had offered to him the Borough of *Carcassone* in these Words. "My Lord, you may know that the Magistrates of *Carcassone*, upon "account of the Disturbances raised by the Inquisitors, and because the King "of *France* will not take Care to protect them from the Actions of the Inquisitors according to their Desire, are willing to receive you for their Lord "and Defender, and will receive you, if, and whensoever you will please to "come, and deliver up to you the Borough of *Carcassone*, &c." And that the Lord *Ferrand* answered, that he would willingly accept what they offered him by the said Friar. And finally, he was accused of Magick, and that he had by him, and read a certain conjuring Book: That hereby he incurred the Sentence of Excommunication, and with an obstinate Mind continued under it for fifteen Years, and at the same time celebrated divine Services: That at length, after daily Contumacy, and long Processes form'd against him, he had

had fully confeſſed all, and humbly deſired to be abſolved from his Sentences of Excommunication. Upon this he was abſolved from the ſaid Sentence, but immediately pronounced, degraded, condemned to perpetual Impriſonment, and to do perpetual Penance in Irons, and with the Bread of Sorrow, and Water of Affliction. Moreover, the Inquiſitors reſerve to themſelves the Mitigation of the aforeſaid Penance, according as they ſhould think expedient, and he himſelf ſhould deſerve it by Patience and Humility, and the Sacrifice of a contrite Heart. But Pope *John* XXII. revoked this Reſervation of mitigating the Puniſhment, and commanded that the whole Sentence and Penance pronounced againſt him, ſhould be rigorouſly and entirely executed. *fol.* 135.

The ſecond Inſtance is that of *William Garrici*, who, beſides his being preſent at the Heretication of a certain Perſon, and adoring Hereticks after an heretical Manner, is ſaid to have conſented, with others, in the Advice and Endeavour, privately by the Aſſiſtance of one of the Servants of the ſaid Inquiſition, to ſteal away and burn the Books of the Inquiſition at *Carcaſſone*, in which were written the Confeſſions and Depoſitions in the Fact of Hereſy, and to have hindred by ſeveral other Methods the Office of the Inquiſition. For this Reaſon he was excommunicated, and continued under it ſeveral Years, and was condemned to be impriſoned. But at length, after many Evaſions, he acknowledged his Fault, and ſubmitted himſelf to the Pleaſure of the Inquiſitors, humbly deſiring Favour and Mercy from them. After he had ſolemnly abjured, not only Hereſy, but alſo the favouring, receiving, defending, and partaking with Hereticks, he was abſolved from his Excommunication, and had this Penance enjoined him; That in the firſt general Paſſage he ſhould perſonally tranſport himſelf, where he ſhould tarry during the Pleaſure or Command of the Inquiſitors, or their Succeſſors. Or if he ſhould be legally prevented, that then he ſhould be obliged to ſend in his Room, at his own Coſt and Expence, a ſufficient and proper Soldier for the Defence of the holy Land. That within the Space of thirty Days he ſhould depart the Kingdom of *France*, to ſuch Place as the Inquiſitors ſhould appoint, there to abide till the Time of his tranſporting himſelf, or after that Time, if he ſends a Soldier in his Room. After this Sentence was pronounced, read and publiſhed by the Inquiſitors, Maſter *William Garrici*, upon his bent Knees, and with his Hands held up together, in Token of great Humility, ſaid, That he accepted the aforeſaid, giving and returning Thanks, firſt to the Lord Jeſus Chriſt, and then to the Inquiſitors, for theſe Favours beſtowed upon him.

Other Magiſtrates are puniſhed with Sentences of Excommunication, their Countries are put under Interdict, and given to the firſt Conqueror of them, many Inſtances of which we have ſeen in the firſt Book of this Hiſtory. And becauſe this Office, in it ſelf hateful, is rendered much more ſo by the exceſſive Cruelty of the Inquiſitors, who have hereby raiſed the Anger and Indignation of all Mankind againſt them; therefore Pope *Pius* V. to prevent the leaſt Hurt or Injury from being offered them, and every Hindrance

that

that may be made to this Office, did, in the Year of our Lord 1569. publiſh a moſt ſevere Bull againſt all who ſhould hurt the State, Effects and Perſons of the ſacred Office of the Inquiſition of heretical Pravity, which it is well worth while to give here entire.

PIUS, *Biſhop, Servant of the Servants of God, for the perpetual Remembrance of the Thing.*

*IF we are poſſeſſed with a daily Care of protecting all other Miniſters of the Church, which we have received into our Care and Patronage from the Lord; how much more neceſſary is it that we ſhould be careful, that they who are employed in the ſacred Office of the Inquiſition of heretical Pravity, may remain free from all Dangers, under the Protection of the inviolable Authority of this See, and that all Offices for the Exaltation of the Catholick Faith may be diſcharged? Since therefore the Violence of ſuch ungodly Perſons grows every Day ſtronger, who by all evil Arts endeavour to ſubvert the aforeſaid Office, and to diſturb the Miniſters of it in the Diſcharge of their Duty, we are driven by Neceſſity more ſeverely to curb this their wicked and ungodly Inſolence. We therefore ordain by this general Conſtitution, with the Advice of our Brethren, that whoſoever, whether a private Perſon, or whole City, or People, or Lord, Earl, Marquis, Duke, or any other more illuſtrious Perſon, ſhall kill, wound, drive away, or terrify any one of the Inquiſitors, Advocates, Procurators, Notaries, or other Miniſters of the aforeſaid Office, or of the Biſhops who execute this Office in their Dioceſe or Province, or the Accuſer, Denouncer, or Witneſs, at any time produced, or called out in a Cauſe of the Faith; and whoſoever ſhall aſſault, invade, burn, or plunder the Churches, Houſes, or other Things, whether publick or private, of the Office or its Miniſters; or whoſoever ſhall burn, take away, or deſtroy the Books, Letters, Authorities, Copies, Regiſters, Protocols, Draughts, Writings, or other Inſtruments, whether publick or private, whereſoever they are placed; or whoſoever ſhall carry them away from the Fire, or plunder, or by any other Method; or who ſhall be preſent, though unarmed, at ſuch Fire, Aſſault, or Plunder, with a Deſign to ſeize, burn, or conceal them; or who ſhall prohibit ſuch Effects and Perſons to be preſerved and defended; or whoſoever ſhall break open any Jayl, or other Place of Cuſtody, whether publick or private,; or ſhall take out and cauſe to eſcape any Priſoner; or ſhall forbid any one to be apprehended, or if apprehended, ſhall reſcue, receive, or conceal him, or ſhall furniſh him with an Opportunity of eſcaping, or ſhall command it, or who ſhall make any Aſſembly or Concourſe, or for theſe Ends ſhall give any Perſons his Aſſiſtance, or ſhall knowingly otherwiſe grant them Help, Counſel or Favour, publickly or privately in any of the aforeſaid, even though no Perſon ſhould be killed, no one wounded, no one delivered, eſcape, or reſcued, nothing forced, nothing broken open, burnt or plundered, altho' no Damage ſhould actually follow; he ſhall nevertheleſs by Authority of this preſent Canon be put under* Anathema, *become guilty of High Treaſon, and be deprived of Dominion, Dignity, Honour, Fee, and every other temporal and perpetual Benefice whatſoever, and left to the Pleaſure of the ſecular Judge, who ſhall inflict on him the ſelf ſame Puniſhments, which are by the lawful*

*lawful Conſtitutions ordained againſt condemned Perſons, and ſhall have all his Goods and Effects confiſcated, as the Canonical Sanctions have ordered againſt condemned Hereticks; his Children ſhall be liable to their Fathers Infamy, and incapable of all Inheritance, Succeſſion, Gift, Legacy whatſoever, whether from Relations or Strangers, nor ever be advanced to any Honours whatſoever. Nor ſhall any Perſon be able to purge himſelf, or to propoſe or carry any Cauſe, who ſhall have committed ſo heinous a Crime out of Contempt or Hatred of this Office, unleſs he can make the contrary to appear by very evident Proofs. The ſame alſo that we have ordained of the aforeſaid, and their Children, we declare ſhall alſo take place with reſpect to all the Clergy, and Presbyters, Seculars and Regulars of all Orders, even tho' exempt; to all who have the Epiſcopal, or any higher Dignity, or whatſoever Privileges they may enjoy; ſo that they, by Authority of theſe Preſents, ſhall be deprived of all their Eccleſiaſtical Benefices and Offices, degraded after the Manner of Hereticks, by the Eccleſiaſtical Judge delivered over to the ſecular Power, and ſubjected, as though they were lay Perſons, to the aforeſaid Puniſhments. However, we reſerve to our ſelves and our Succeſſors, the Cauſes belonging to the Popes, that when the Matter is enquired into, and related to them, we may proceed againſt them to Depoſition and other the beforenamed Penalties, as the Heinouſneſs of the Crime ſhall require. And whoſoever ſhall attempt to ask Pardon, or otherwiſe to intercede for ſuch Perſons, let them know they ſhall actually incur the ſame Penalties, which by the ſacred Conſtitutions are denounced againſt the Favourers of Hereticks. But if any one who is conſcious or acceſſary to ſuch Crimes, ſhall, through a Regard to Religion, or moved with Repentance, diſcover the Matter, before it is otherwiſe known, he ſhall be freed from Puniſhment. But 'tis our Deſire, that this Method of granting all Abſolutions whatſoever from the aforeſaid Crimes, as alſo of Reſtorations and Reſtitutions to Reputation and Honour, ſhall be henceforth obſerved,* viz. *that our Succeſſors ſhall grant none of them till ſix Months at leaſt after their Advancement to this ſupream Dignity, nor without Petitions expreſsly made and verified to the ſupream Office of the Inquiſition eſtabliſhed here. Decreeing that all and every ſuch Abſolutions, Reſtorations and Reſtitutions, which ſhall henceforward be granted to Petitions not thus verified and expreſs, ſhall be of no manner of Advantage to any one; and that they ought not to derogate in any Part from theſe Preſents, unleſs the whole Tenor of them be inſerted to a Word, and ſuch Grace be granted from the certain Knowledge of the* Roman *Pontiff, and ſigned with his own Hand; and if it ſhould happen that for any Reaſon they be derogated from, ſuch Derogations ſhall be of no Strength and Validity whatſoever. We therefore command all and ſingular the Patriarchs, Primates, Arch-Biſhops and Biſhops, and other Prelates of Churches conſtituted throughout the whole World, that by themſelves, or another, or others, they procure theſe preſent Letters, or Copies of them, to be ſolemnly publiſhed every one in their Provinces, Cities, Dioceſes, and Places, and as far as they are able to be firmly obſerved, by reſtraining all Contradictors whatſoever by Eccleſiaſtical Cenſures and Penalties without any Appeal, and by encreaſing again and again ſuch Cenſures and Penalties, and by calling in, if Need be, the Aſſiſtance of the ſecular Arm. All Conſtitutions and Ordinations Apoſtolick, and all other Things whatſoever to the contrary notwithſtanding. 'Tis alſo our Will, that Copies of theſe Preſents ſhall be printed and publiſhed, and ſigned with the Hand of a*

*publick*

*publick Notary, and with the Seal of every Eccleſiaſtical Court or Prelate, and that they ſhall every where have the ſame Authority, as theſe Preſents would, if they were exhibited and ſhewn. Moreover, we conjure all Princes of this World, to whom the Power of the ſecular Sword is granted for the Puniſhment of evil Men, by that Faith which they have promiſed to defend, ſo to interpoſe and act their Parts, either by granting Aſſiſtance to the aforeſaid Miniſters, or by puniſhing the Crimes after the Sentence of the Church, that by their Help the Miniſters of ſo great an Office, may happily execute their Truſt, to the Glory of the eternal God, and the Encreaſe of Religion, whereby they will receive a moſt ample Reward from God, in the Participation of eternal Bleſſedneſs, which he hath prepared for the Defenders of the aforeſaid Faith. Let it therefore be lawful for no Man to infringe, or raſhly dare to contradict this Page of our Sanction, Legation, Statute, Decree, Command, Obteſtation and Will. But if any one ſhall preſume thus to do, let him know that he ſhall incur the Indignation of Almighty God, and of his bleſſed Apoſtles* Peter *and* Paul. *Given at St.* Peter's *in* Rome, *in the Year of the Incarnation of our Lord,* CIↃICLXIX. Ap. 1. *and Fourth Year of our Pontificate.*

*p.* 2. *t.* 13. §. 24. According to the Conſtitution of this Bull, very grievous Puniſhments are often inflicted on thoſe who violate it. *Carena* relates from *Farinacius*, that a certain Priſoner in the holy Office was hanged for killing his Keeper, in order to make his Eſcape. He adds, That at *Cremona*, *An.* 1614. a certain *Jew* was hanged for killing another *Jew* who had depoſed againſt him in the holy Office. And not only thus, but if the Wound is not mortal, but ſlight, he ſays that he hath ſeen ſuch Offenders ſometimes condemned for ever to the Gallies, or at leaſt for ten Years. This was executed upon a certain Perſon at *Cremona*, who had caned a Witneſs for depoſing againſt his Brother in the holy Office. His Sentence was publickly read to him in the great Epiſcopal Hall at *Cremona*, *Carena* himſelf being preſent.

The ſame *Carena* gives us a Caſe, by which it will appear, that ſometimes thoſe who terrify Witneſſes, but yet don't obtain their End, have been diſmiſſed with a ſevere Reprimand, and being put in mind of the before-mentioned Bull. A certain Sergeant of the holy Office had a Meſſage from the Inquiſitor to deliver to a certain Countryman's Wife: The Woman not being at home, the Sergeant would leave it with her Husband, upon which the Countryman gave him ſeveral hard Names, and follow'd him with Weapons, crying out, *Li ſcirro becco torna in dietro a tor il tuo precetto.* The Pope conſented that the Cauſe ſhould be tried before him, *July* 15, 1621. and the Sentence approved was, that the ſaid Countryman had incurred the Penalty of this Conſtitution, and that he was to be condemned to the Gallies for five Years; with this Addition, That from the Goodneſs of the Pope he ſhould be heard, if he deſired the Grace of Commutation, upon Conſideration of the Plainneſs of the Man, and his conjugal Affection.

However, *Carena* adds a Caution, that from theſe Inſtances 'tis not lawful for the Inquiſitors and Miniſters of the holy Office, to make for themſelves a general Rule, *viz.* that ſuch who terrify the Witneſſes ought to be puniſhed,

puniſhed, as above, and after the ſame Manner as thoſe who wound them; for this is not left to the Pleaſure of the Inquiſitors or Ordinaries by the Matter of this Bull, but to the Cardinals, the ſupream Inquiſitors, to whom it belongs to declare, whether Criminals have incurred the Penalties of this Conſtitution, or not.

He gives us another Inſtance that happened at *Cremona*, *An.* 1592. A certain Perſon had accuſed all the Witneſſes examined againſt him in the holy Office, and had cauſed them to be impriſoned by the ſecular Judge for ſundry Crimes and Damages which they and their Cattle had occaſioned in his Grounds. The major Part of the Congregation at *Cremona* thought, that although the Accuſation could not be called formally that terrifying of which the Bull ſpeaks, yet inaſmuch as it appeared ſlanderous and deceitful, the Criminal ſhould be obliged to free the impriſoned Witneſſes from Jayl at his own Expence, and pay them, when delivered, all their Charges.

This takes place, not only when any Perſon is accuſed as an Heretick, §. 17.
" but in all and every Cauſe whatſoever belonging to the holy Office; be-
" cauſe every Cauſe belonging to this Tribunal, is properly ſaid to be a Cauſe
" of the Faith, and to belong to it, and to infer ſome Mark of the Faith,
" either directly or indirectly. And in all Cauſes of this holy Office there is
" the ſame Reaſon for maintaining the Liberty of this Tribunal. Thus in
" the Year 1635. a certain *Neopolitan* Soldier had reſcued from the *Sbirri* a
" certain Blaſphemer, taken up in the Name of the holy Office, for which
" he was condemned by Order of the ſupream Tribunal of the City to all
" the Penalties of this Conſtitution. Altho' afterwards, through the Fa-
" vour of the ſaid ſupream Tribunal, the Puniſhment of Death was exchanged
" for that of the Gallies for ten Years. And this was publickly executed at
" *Cremona*, in the Hall of the holy Office."

Yea, they extend this Affair ſometimes ſo far, that all manner of Offences committed againſt any one that belongs to the Inquiſitors, though they have no Relation to the Faith, are puniſhed in the ſame Manner, as though the Office of the Inquiſition had been hindered by them, or the Inquiſitor himſelf had received ſome grievous Injury. *Reginald Gonſalvius* gives us a re- *p.* 191.
markable Inſtance of this which happened in the former Age at *Seville*. The Biſhop of *Terragone*, chief Inquiſitor at *Seville*, went one Summer for his Diverſion to ſome pleaſant Gardens ſituate by the Sea Side, with all his Inquiſitory Family, and walked out, according to his Cuſtom, with his Epiſcopal Attendance. A Child of the Gardener, two or three Years old at moſt, accidentally ſat playing upon the Side of a Pond in the Garden, where my Lord Biſhop was taking his Pleaſure. One of the Boys that attended his Lordſhip, ſnatch'd out of the Hand of the Gardener's Child a Reed, with which he was playing, and made him cry. The Gardener hearing his Child, comes to the Place, and when he found out the Occaſion of his crying, was angry, and bad the Inquiſitor's Servant reſtore the Reed to him. And upon his Refuſal, and inſolently contemning the Countryman, he ſnatched it away, and as the Boy held it faſt, the Gardener ſlightly hurt his Hand

by the ſharp Huſk of the Reed, in pulling it from him. The Wound was far from being mortal, or from endangering the Loſs of any Part, and ſo could not deſerve a ſevere Puniſhment. 'Twas no more than a Scratch of the Skin, a mere childiſh Wound, as one may imagine by the Cauſe of it. However, the Inquiſitor's Boy came to his Maſter, who was walking near the Place, to complain about his Wound, upon which the Inquiſitor orders the Gardener to be taken up, and thrown into the Inquiſitory Jayl, and kept him there for nine Months in very heavy Irons, by which he received ſuch Damage in his Circumſtances, which were at beſt but mean, as the poor Man could not eaſily recover; his Children and Wife, in the mean while, being ready to periſh for Hunger. And all becauſe he did not pay Deference enough to the Inquiſitor's Boy, as a Member of the holy Tribunal. At nine Months End they diſmiſſed him from Jayl, and would have perſuaded him, that they dealt much more mercifully with him, than his Crime deſerved.

## CHAP. XI.

### *Of Perſons ſuſpected of* HERESY.

*Direct. part.* 2. *Qu.* 55, 56.

ALthough, in other Caſes, 'tis uſual to diſtinguiſh between a Suſpicion and a Preſumption, a Suſpicion being no other than a Man's Opinion concerning a Crime, ſeveral of which Suſpicions muſt concur to form a Preſumption of it, yet in the Cauſe of Hereſy they are taken for the ſame. A Preſumption or Suſpicion therefore in this Affair is, a probable Gueſs of a doubtful Matter, proceeding from the Nature of the Thing, or the Circumſtances of Affairs or Perſons. Preſumptions ariſe from a Perſon's Country and Parents; but theſe are too general. Others ariſe from his Education, and the Manners of thoſe with whom he converſes. This is the Reaſon that the Inquiſitors, in their firſt Examinations, ſo diligently aſk the Criminals of what Nation, Country, Family and Kindred they are, amongſt whom they have been educated, who were their Maſters, Inſtructors, Companions and Friends. For theſe Things, and a thouſand other ſuch are uſually conſidered in doubtful Caſes, that from hence they may draw more probable Proofs. They alſo conſider the Sex. A Man may more eaſily be preſumed guilty of Robbery. A Woman of Witchcraft. And farther, they conſider the Age, Fortune, Difference of Condition, Nature of Mind, and Inclinations.

Simanc. *p.* 50. §. 8, &c. §. 17.

In the Cauſe of Hereſy Suſpicion is threefold; Light, Vehement and Violent: A light Suſpicion is that which ariſes from the external Signs of Actions and Words, by which ſuch a Gueſs may be made, as may imply, not indeed frequently, but ſeldom, and by Accident, that he who ſays or does ſuch Things is an Heretick. This is inferred by a ſmall Conſequence.

As

As if any one ſhould argue thus: He is found to frequent private Conventicles, and in his Life and Manners departs from the common Converſation of the Faithful; therefore he is an Heretick, becauſe Hereticks themſelves are found to do ſuch Things frequently. Such are lightly ſuſpected of Hereſy. But the Inquiſitors teach, that ſuch Perſons ought not eaſily to be proceeded againſt in a Cauſe of ſuch Importance. However, ſometimes the very ſpeaking to Hereticks hath not eſcaped without Puniſhment. Thus *Bzovius* relates, *An.* 1234. §. 14. *Acurſius*, the Son of *Aldobrandinus*, a Citizen of *Florence*, incurred the Canon, becauſe, whilſt he dwelt in *France*, he converſed with Hereticks. For 'twas, they thought, a Crime for any one ſo much as to ſalute them, contrary to the Apoſtolick Inſtitutions. But as he was afterwards abſolved by *Raymond Peniafortius*, Penitentiary of the Apoſtolick See, Pope *Gregory* enjoin'd the Prior, and Friar *Robert*, and the reſt of the Predicant Friars in *Paris*, that they ſhould not any ways moleſt him, or ſuffer or command him to be moleſted.

A vehement Suſpicion, which is alſo called *Juris*, ariſes from ſuch external Words and Deeds, which, when known, infer an Argument frequently concluſive; and becauſe, as to moſt, he who doth or ſays ſuch Things is an Heretick; and is uſually taken for full Proof, if there be nothing proved to the contrary. Such are thoſe, who being called to anſwer concerning the Faith, do not appear in the Time aſſigned them; ſuch who knowingly hinder the Office of the Inquiſition; who knowingly give their Counſel and Aſſiſtance and Favour to ſuch Hinderers; who inſtruct Hereticks when cited to conceal the Truth, and ſpeak falſely; who are any ways excommunicated upon Account of the Faith; who knowingly favour, defend, and receive Hereticks; who are infamous for Hereſy, upon account of their Familiarity with ſuch whom they know to be Hereticks; who knowingly accompany, viſit and receive Hereticks. He alſo who gives a Kiſs to an Heretick is vehemently to be ſuſpected of Hereſy, according to the Judgment of the Synod of *Terragone*, according to this Decree: *It is likewiſe enquired: Whether he who gave a Kiſs to one of the* Inzabbatati, *or an Heretick, when he believed and knew him to be ſuch a Perſon, or prayed with him, or concealed him, or heard preaching or reading from him, and believed him to be a good Man, is to be judged of as a Believer of his Errors? And we ſay that he is not. However, let ſuch an one be condemned as a Favourer, or Concealer, and Benefactor, and vehemently ſuſpected to believe his Errors; unleſs he ſhould be ſo learned or diſcreet, as not to be able to pretend Ignorance. And this we think proper to leave to the Pleaſure of the prudent Judge.* Beſides theſe, ſuch alſo are vehemently ſuſpected, who are judicially convicted of Perjury, or a Lye, in a Cauſe of the Faith, and who have often done or ſaid any thing againſt the Faith, and the like, for all the particular Caſes cannot be enumerated. They who do ſuch Things are ſaid to be vehemently ſuſpected.

Amongſt theſe are reckoned alſo, ſuch who knowingly give Eccleſiaſtical Burial to Hereticks, their Believers, Receivers, Defenders, and Favourers, *i. e.* who bury them in the Church-yard, after a Chriſtian Manner, with Pſalms and Prayers. For he who knowingly buries thoſe, whom the Church perſe-

*Direct. p.* 3. *qu.* 40. *com.* 89.

cutes and condemns as Hereticks, or ſuſpected of Hereſy, doth, whatever he may think in his Mind, ſeem by Fact to declare and profeſs, either that the Church ought not to deprive ſuch Perſons of Burial, or that it is lawful to pray for Hereticks and their Believers, *&c.* becauſe he buries them after the Manner of Catholicks. But whether this Suſpicion be only light, or vehement, skilful Men muſt judge of according to the Quality of the Perſons. The Puniſhment of ſuch is Excommunication, from which they cannot be abſolved without proper Satisfaction, whether it be Abjuration or Canonical Purgation. Nor can they merit the Benefit of Abſolution, unleſs they unbury them with their own Hands, and throw out the Bodies of ſuch condemned Perſons from their Graves. Cap. *Quicunq;* in princ. de hæret. lib. 6.

The ſame Suſpicion ariſes, if any one celebrates the Obſequies of ſuch a Perſon after the Manner of Catholicks, when ſuch Heretick or ſuſpected Perſon dies any where elſe, at *Geneva* for Inſtance, or any other Place, where Men live and believe heretically. And finally, if any one ſteals away and preſerves the Aſhes, Bones, Garments or the like, of burned Hereticks.

But if any one finds an Heretick, or a Believer or Favourer of Hereticks, or any ſuch Perſon dead, in thoſe Places in which he cannot eaſily accuſe them before the lawful Judges, then he may inter them, but not in holy Ground, that ſo their unburied Bodies may not corrupt the Air; nor ſhall he hereby deſerve any Puniſhment, or contract any Suſpicion of Hereſy. He muſt however report the Affair to the Judges of the Faith, as ſoon as he can, that they may appoint what is needful to be done.

*Tit.* 49. §. 1, 3. There is alſo another Kind of ſuſpected Perſons, *viz.* thoſe who have ſaid any Thing ſcandalous or ſuſpected, as *Simancas* teaches us. *Tit.* 49. "No one "ought to preach, who is not examined and approved. But if any Preacher "thus examined and approved, ſhall have ſaid any Thing ſcandalous or "ſuſpected, the Inquiſitors muſt ſummon him, and immediately compel him, "either publickly to retract it, or to explain it to the People in a pious and "catholick Senſe; and he is moreover to be corrected and admoniſhed, not "to dare to preach ſuch Things for the future. But if he preaches any He-"reſy, he muſt be puniſhed according to his Crime, and deprived of the Of-*part.* 2. "fice of Preaching. *J. Royas* explains this more fully. Whoſoever ſhall *aſſert.* 33. "confeſs, or be convicted of Propoſitions raſh, injurious, ſcandalous, or the "like, he muſt be puniſhed in an extraordinary Manner, and forced to ab-"jure, according to the Nature of the Suſpicion, whether it be light or vehe-"ment. 4 *Inſtruct. Tolet.* cap. 8. *Inſtruct. Madril.* An. 1561. c. 53. and 65. "For theſe and the like Crimes, which are not direct Hereſies, Criminals "are ſeldom detained in the ſecret Priſons of the holy Office, but in Mona-"ſteries or private Places. 4 *Inſtruct. Hiſpal.* c. 4. 3 *Inſtruct. Pinciana.* c. 10. "This is the Caſe, though the Crime be not fully proved; but pecuniary "Puniſhments inflicted for ſuch Offences, muſt be converted to the Uſe of "the holy Office."

But leſt the Popiſh Doctors ſhould be eaſily rendered ſuſpected of Hereſy, and deprived of their Office by the Inquiſitors, they generally make uſe of a certain

certain Proteſtation, that by this Means they may eſcape Cenſure, as *Simancas* teaches. " Becauſe 'tis dangerous to diſpute about Matters of Faith and *Tit.* 55.
" Religion, even though the Truth be ſpoken, therefore learned Men, wiſe and §. 1.
" pious, when they treat of theſe Things, do with Prudence uſually make a
" ſolemn Proteſtation, that they would not by any Means deviate from the
" Catholick Faith, but in all Things, and always embrace the Doctrine of
" the Univerſal Church, and willingly ſubject themſelves to her Cenſure. After
" this they add a conditional Revocation, to this Senſe: That if it ſhall hap-
" pen that they have ſaid or written any Thing againſt the Catholick Faith,
" they do from henceforth retract it, and would have all underſtand that it was
" ſaid or written through Unſkilfulneſs or Imprudence, and not through Ma-
" lice or Obſtinacy." But leaſt any one ſhould eaſily eſcape the Cenſure of the Inquiſitor by ſuch kind of Proteſtations, *Simancas* adds theſe Limitations. §. 6.
" That ſuch Proteſtation, though repeated a thouſand times, doth not ex- §. 8.
" cuſe, when any one willingly errs againſt the Catholick Faith; or when
" through Ignorance he errs in thoſe Things, which he is explicitely re-
" quired to know, unleſs poſſibly he is able to prove his Ignorance, or ſome
" Cauſe of his Error. But it will be of great Advantage to him when he errs §. 9.
" in thoſe Things, which are ſo difficult, obſcure and doubtful, that may
" ſometimes eſcape the moſt learned Men. Becauſe ſuch an Error is ſuppo-
" ſed to ariſe more from Ignorance than Malice."

Suſpicion alſo ariſes, that a Perſon thinks ill of ſome Doctrine or Inſtitution, *par.* 3. *cam.* 23. *p.* 472. or Order of the Church, or ſome other Thing concerning which he muſt believe as the Church believes, *viz.* concerning the Power of the Pope, and Prelates, the holy Religions of the Monks, the Rites of the Sacraments, and other Things, if he treat them unworthily, injuriouſly and diſgracefully; or if he defiles theſe excommunicatory Libels, which are commonly called *Cedulones*, by drawing naſty Figures upon them. Such Perſons *Columna Marſilius*, Arch-Biſhop of *Salerno*, in a certain Anſwer contends, do belong to the holy Office, becauſe, by this Action, they ſeem to think wrong of the Power of the Prelates, and to contemn the Cenſures of the Church, and to ſcoff at and diſgrace the Church which uſes ſuch Cenſures. Farther, if any one per- *Lucern. Inquiſ. in v. Suſpicion.* ſiſts in his Excommunication for two Years, or for one, he is ſuſpected of Hereſy. For then 'tis preſumed that he thinks ill of the Sacraments of the Church, and its Power, becauſe he deſpiſes its Excommunication. But if any one be excommunicated for Contumacy committed, in a Cauſe of Hereſy, after a Year he is looked on as an Heretick, and may be puniſhed as ſuch.

Such alſo are ſuſpected who converſe with Hereticks, and from ſuch Converſation there ariſe Signs ſufficient to put ſuch an one to the Torture, as *Carena* teaches, *p.* 2. *t.* 4. §. 7. *n.* 69.

A violent Suſpicion, which is alſo called *Juris* and *de Jure*, is a certain Diſpoſition of the Law, preſuming ſomething, and determining upon ſuch Preſumption, as though it were certain and known. Nor can any Proof to the contrary be regularly and directly admitted againſt ſuch Preſumption; becauſe, as it proceeds from open and violent Marks, it is taken for a manifeſt

feſt Truth. It ariſes from external Signs of Actions or Words, by which it may be concluded effectually, and almoſt always, that he who ſays or doth theſe Things is an Heretick. As if heretofore any one ſhould adore Hereticks, or reverence them after their Manner; or receive the Conſolation or Communion from them, or do the like Things belonging to their Cuſtom. Cap. *Filii* & *Accuſatus*. Extra. de hæret. lib. 6. Such are ſaid to be violently ſuſpected.

A Perſon lightly ſuſpected, is enjoined Canonical Purgation, or even a light Abjuration. In this Caſe however the Proceeding muſt be cautious; becauſe if any one falls into the like Suſpicion after Abjuration, he muſt be more grievouſly puniſhed. Cap. *Accuſatus*. In princip. *A Perſon accuſed or ſuſpected of Hereſy, againſt whom there is ariſen great and vehement Suſpicion of this Crime, if in Judgment he abjures his Hereſy, and afterwards falls into the ſame Suſpicion, ought to be looked on as a Relapſe by a certain Conſtruction of Law, although before his Abjuration the Crime of Hereſy hath not been proved. But if ſuch Suſpicion ſhall be light and moderate, although on this Account he is to be more grievouſly puniſhed, yet he is not to be puniſhed as thoſe who relapſe into Hereſy.*

A Perſon vehemently ſuſpected is not an Heretick, nor can he be puniſhed as an Heretick. Extra. de præſumpt. c. *literas*. §. *Quocirca*. where 'tis expreſsly ſaid, *Becauſe for the mere Suſpicion, though vehement, we would not have him condemned for ſo grievous a Crime.* But he muſt be commanded to abjure generally every Hereſy, and eſpecially that in which he offended, as a Perſon vehemently ſuſpected. And this is no light Puniſhment. Becauſe if he afterwards relapſes either into his former Hereſy, or any other, or aſſociates with thoſe whom he knows to be Hereticks, or affords them ſuch Favour as is capable of no Excuſe, he incurs the Penalty of the Relapſed. Cap. *Accuſatus*. where we have theſe Words. *But as to the Perſon who offends in one Sort or Sect of Hereſy, or errs in one Article of Faith or Sacrament of the Church, and afterwards ſhall abjure ſimply or generally his Hereſy; if after this he offends by falling into another Sort or Sect of Hereſy, or errs in any other Article or Sacrament, we will that he ſhall be judged as one relapſed into Hereſy. He alſo, concerning whoſe Fall into Hereſy before Abjuration, there hath been, or now is a Certainty, who, after ſuch Abjuration, ſhall receive, accompany, viſit, or aſſociate himſelf with Hereticks, or ſhall make or ſend them Preſents or Gifts, or grant them ſuch Favour as cannot be excuſed, even though he doth not adore them, to uſe your Words, is deſervedly to be judged as a Relapſe; ſince 'tis not to be doubted that theſe Actions are the Conſequence of the former Error he approved.* If he doth not conſent immediately to abjure at the Command of his Judge, he is excommunicated; and if he continues under Excommunication for a Year, he muſt be condemned as an Heretick, and delivered over to the ſecular Arm; and may in the mean while be puniſhed with ſome leſſer Puniſhment, at the Pleaſure of his Judge, as particularly with a Fine.

Simanc. t. 46. §. 76. "But this only takes Place, when the Criminal is vehemently ſuſpected, "and upon account of his Age, or State of Health, or any other Cauſe, can- "not be tortured or purged. In ſuch a Caſe he is carried out in publick,

"cloathed

" cloathed with the penitential Habit, and is ſolemnly to abjure, and to for-
" feit the third Part of his Effects, more or leſs, at the Pleaſure of the Judge.
" But theſe Penalties muſt be applied to the Expences of the Office of the
" holy Inquiſition, nor can they be received as Payment of the Salary due to
" them, or their Miniſters, as is more fully contain'd in a certain Command
" of the General Inquiſition. 4 *Inſtruct. Tolet.* cap. 8."

As to the Heirs of thoſe who are ſuſpected of the Crime of Hereſy, and who are Favourers, *&c.* of them, they muſt not be condemned to pay thoſe pecuniary Penalties, if ſuch ſuſpected Perſons die, whilſt the Accuſation is depending; becauſe Suſpicions, though vehement, are extinguiſhed by the Death of the Criminals. Cap. *Accuſatus.* §. *Porro. Moreover, if any one, upon account of the Reception, Defence, or favouring of ſuch Hereticks, ſhall have bound his Eſtate to perform that Penance which the Inquiſitors would enjoin him, and ſhall die before ſuch Penance be enjoin'd him, his Heirs ſhall not be obliged to make ſuch Satisfaction for a Crime already extinguiſh'd by Death.* Nor can they be compelled to perform a perſonal Penance enjoin'd to ſuch ſuſpected Perſon, but not actually perform'd by him. But they may be forced to perform the Penance actually enjoined him, whilſt alive, out of his Eſtate. Cap. *Accuſatus.* §. *ſi vero. But if any one hath tied his Eſtate to the Inquiſitors, to receive from them and perform Penance, upon account of thoſe Things in which he hath offended, by receiving Hereticks, or defending and favouring Hereticks, though he is not an actual Heretick himſelf, and ſhall die after ſuch Injunction of Penance, without having performed it; if by ſuch Penance any Burthen, profitable to Salvation, be laid upon, and to be exacted from his temporal Eſtate, his Heirs may be compelled by the Inquiſitors to fulfil it, or any other to whom ſuch Eſtate with this Incumbrance on it may devolve.* So that if it was enjoined him to build a Church or Hoſpital, or to reſtore Uſury, and the like, and he hath bound his Eſtate for accompliſhing the ſaid Penance, to whatſoever Succeſſor, even though to any particular one, ſuch Eſtate ſhall, after his Death, devolve, it always comes to him with ſuch Incumbrance. This is alſo provided for by the Council of *Biterre*, cap. 19. *Let the ſame take place as to thoſe, who die after having received Penance, but have delay'd to perform it; or, as above-mentioned, have tied their Eſtates to fulfil it.* §. 77. Eymer. p. 3. 9. 120. com. 169.

He who is violently ſuſpected, is to be condemned as one convicted of Hereſy, and as an Heretick. Cap. *Excommunicamus.* 1. §. *Qui vero.* Extra. de hæret. lib. 5. & Cap. *Cum contumacia.* & Cap. *Ut Officium.* For he either confeſſes his Crime or not. If he confeſſes, and will return, and abjure his Hereſy, he muſt be admitted to Penance. Cap. *Ad abolendam.* & Cap. *Excommunicamns.* 2. §. fin. If he doth not conſent to abjure, he muſt be delivered over to the ſecular Court, and receive his deſerved Puniſhment. Cap. *Ad abolendam.* §. 1. If he doth not confeſs his Crime after he is convicted, and will not conſent to abjure, he is to be condemned as an impenitent Heretick. Cap. *Ad abolendam.* From theſe Things it appears, that although a light, a vehement, or violent Suſpicion, ariſe from different Cauſes, yet it may happen that a light Suſpicion may at length ariſe to a violent one, and the Beginning of a violent Suſpicion end in a light one. For Inſtance, if one lightly

ſuſpected,

ſuſpected, and cited to anſwer concerning the Faith, doth not appear, he becomes vehemently ſuſpected, and is excommunicated. And if he abides under that Excommunication for a Year, he is violently ſuſpected, and condemned as an Heretick.

## CHAP. XII.

### *Of Perſons defamed for* HERESY.

*Direct. p. 2. qu. 57.* WHO they are that are defamed for Hereſy, we are taught by the Council of *Tholouſe*. Cap. 16. *Such ought to be accounted defamed, who are cried out againſt by publick Report, or of whoſe Defamation amongſt good and grave Perſons there is legal Proof before the Biſhop of the Place.* So that to the perfect Proof of ſuch Defamation or Infamy for Hereſy, two good and grave Witneſſes ſuffice. But if they are vile and infamous, although they are not to be deſpiſed on this Account, ſo as to ſtop proceeding to an Inquiſition from what they depoſe, yet ſuch Defamation is not fully proved by them.

*Lucern. Inq. in voce* Infamia. They ſay alſo, that 'tis not neceſſary that the Witneſſes ſhould hear this Infamy from the ſame prudent and diſcreet Perſons; but 'tis ſufficient, though they hear it from different. And they give this Reaſon for it; becauſe as they are only to prove Infamy, 'tis ſufficient if the Witneſſes agree in and concerning this Matter. Yea, they teach farther, that 'tis not neceſſary that the Witneſſes ſhould agree as to the Cauſes of their own Knowledge. So that if the Witneſſes ſhould ſay, they know this Infamy, becauſe they have heard of it, they are not bound to prove they have heard it; nor is it required that one Witneſs ſhould agree with the other as to Time and Place, and the Cauſes of their Knowledge. Becauſe the Queſtion is not about theſe Things, but only concerning the Fame and Infamy. So that tho' they appear ſingular in what they ſay, their Aſſertion ſhall be abided by.

*Ibid.* When once this Infamy is proved by Witneſſes, they enquire, whether the Perſon inquiſited can prove himſelf to be of good Reputation, and thus put a Stop to the Inquiſition concerning the Truth of the Crime, and take away the Proof of his bad Character. Here the Popiſh Doctors greatly differ. Some ſay, that the Proof concerning his good Character, ought not to be admitted, becauſe it ſeems to be eluſive. For if an hundred Perſons ſhould ſay ſuch an one hath a bad Character, and a thouſand that he is of a good one, the Proof of the good one doth not diſcharge him, becauſe he ſtill remains infamous in the Account of others, and the Inquiſition is to be made in regard of them. Others ſay, that the Report of the greateſt Number is to be ſtood to. Others, that the Proof is to be admitted, but whether it affects the contrary Proof depends upon conſidering wherein the publick Report agrees, what is the Quality of the Witneſſes and Perſons, according to which the Judge is

to.

to determine which of the Proofs is valid. Others ſay, that either the Witneſſes on both Sides depoſe concerning the Perſon's Character, as to the ſame Place and Time, and then the moſt credible Witneſſes are to be believed; or the Witneſſes on both Sides are equally credible, and then the greateſt Number muſt determine; or the Number of them is equal, and then the moſt probable Proof is to take Place, and that Proof is to be accounted the moſt probable, which adds Weight to the Cauſe by any like Preſumption.

The Puniſhment of one thus defamed is Canonical Purgation, and ſome other ordinary Penalty. Cap. *Excommunicamus itaq;* Extra. de hæret. §. *Adjicimus*, when the Defamation is fully proved. But if it is not fully proved, the Perſon cannot be compelled to a Canonical Purgation, unleſs there be fuller Proof, and other Signs and Tokens concur with the Defamation. They ſay 'tis the ſame, if the Infamy ariſes from Rivals and Enemies. This is ſufficient to give a Beginning to the Inquiſition, but not to enjoin Canonical Purgation, unleſs what they ſay be probable. Sometimes alſo Perſons are defamed for Hereſy upon this Account, that they have lived in Places defamed or ſuſpected of Hereſy, and from thence have come amongſt the Papiſts. In this Caſe the Synod of *Saltzbourg*, held two Ages ago, hath decreed: *The Pariſh Prieſts ought alſo to obſerve thoſe who come from the Countries of Hereticks, or Places ſuſpected of Hereſy, and to conſider the Words and Deeds of all ſuch, and to take Cognizance of their Life, Behaviour and Manners; and if there be any Ground of Suſpicion, to acquaint the Ordinary with it.* Finally, the Council of *Tholouſe* hath provided, That the Prelates, Barons, and all other Lords of Countries, ſhall not have in their Families or Counſel, Perſons defamed or ſuſpected of Hereſy, in theſe Words: *Neither let them preſume to have or retain in their Family or Counſel, ſuch Perſons*, viz. Hereticks, or Believers of Hereticks, *or any other defamed of Hereſy, or whom they believe to be ſuſpected concerning it.* This they explain, not only of Perſons condemned, and judicially and legally proved to be infamous and ſuſpected, but of ſuch Perſons before they have received Sentence.

*Conſtit.* 6. *cap.* 2.

*Cap.* 16.

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## CHAP. XIII.

### *Of Perſons Relapſed.*

A Perſon is ſaid to be relapſed, upon a double Account, either into Hereſy, or the favouring of Hereſy. One relapſed into Hereſy is he, who after he hath been convicted either by the Evidence of the Fact, or his own Confeſſion, or by a legal Production of Witneſſes, hath publickly abjured his Hereſy, and is convicted of falling into it again. So that though a Perſon who falls into the ſame Error again and again, without any ſolemn Pe-

*Direct. p.* 2. *qu.* 58.

nance intervening, or making an Abjuration or Canonical Purgation, may be truly ſaid to be a Relapſe, yet he cannot be puniſh'd as ſuch, ſo as to be delivered over to the ſecular Court, if ſo be he will repent. Of theſe relapſed Perſons there are four Sorts. The firſt, when any one falls into the ſame Hereſy he hath abjured. Here the Doctors diſpute, whether or no a Perſon who abjures as an Heretick before the Inquiſitors Subdelegate, and afterwards falls into the ſame or any other Hereſy, is to be accounted as a Relapſe, if there be no Certainty of the Subdelegation of that Judge before whom he abjures. However, in the City of *Como*, a certain Woman, who had thus abjured, was given over as a Relapſe to the ſecular Arm, and burnt, by the Advice of the whole College of Counſellors in that City, and of the Biſhop, and of *John Thomas Odeſchalcus*, a Senator. It was determined alſo after the ſame Manner at *Mantua* in a like Caſe. The ſecond, when any one falls into an Hereſy which he abjured as vehemently ſuſpected, but not if he only falls again into a vehement Suſpicion of Hereſy. The third, when after a general Abjuration of Hereſy, he falls into an Hereſy different from the particular one he abjured. The fourth, when after having abjured as an Heretick, he accompanies, viſits, *&c.* Hereticks, ſends them Preſents, or grants them Favour.

Carena, *p.* 2. *t.* 2. §. 6. *n.* 36.

Cap. *Accuſatus.* de hæret. l. 6 Ibid. §. *Cum vero.* §. *Ille quoque.*

Carena, *p.* 2. *t.* 2. §. 5. *n.* 31.

The Gloſs on the aforeſaid cited Chapter only excepts the Caſe of Hunger, which excuſes, provided it be violent. But this Exception was not allowed by the ſupream Council of the *Spaniſh* Inquiſition, in which a certain Perſon was delivered over to the ſecular Arm as a Relapſe, who having been reconciled as a *Moor*, returned afterwards to ſome of that ſort, and would have excuſed himſelf by this Gloſs, that he went to them upon account of Hunger.

*P.* 2. *aſſert.* 41. §. 332.

So that in order to a Man's being accounted as a Relapſe, *F. Royas* ſays 'tis neceſſary, that it be proved that the Criminal did fall into Hereſy, and is now fallen again into it. The Proof, as to the firſt, muſt be true or preſumptive, as to the ſecond Legal: He therefore adviſes, that the Promoter Fiſcal ſhould be cautious in accuſing the Criminal of his firſt Lapſe, that he may not be obliged only to exhibit the firſt Sentence pronounced againſt ſuch a Relapſe, but that it may appear by the Confeſſion of the Criminal, and the Inſtrument of his Sentence, that he was fallen into Hereſy, and hath abjured. But even then the Criminal is to be heard, deſiring to alledge and prove his Innocence. The ſame *Royas* ſays, that in the Inquiſition of *Valence*, there is an Apoſtolick Indult, which provides, that Perſons relapſed, if *Moors*, and truly penitent, may be again reconciled to the Inquiſitors, becauſe new Converts ſhould be more mildly dealt with. But this muſt not be extended to their Teachers commonly called *Alfaquins*.

§. 335.

§. 348.

*Tr. tr. fol.* 417.

But beſides theſe, there are two other Ways, by which a Perſon is accounted to be a Relapſe. Firſt, When he is found to be perjured after Abjuration, according to the Reſcript of *Innocent* IV. *Sperabamus. Calling before you again as well thoſe who have confeſſed concerning heretical Pravity, as thoſe who have not, whether they have been enjoined Penance by you on this Account or no, compel them to declare the Truth, as well concerning themſelves, as others ſuſpected of Hereſy;*

*Hereſy; ſo that if any of them be found to have ſuppreſſed the Truth in any Thing, or as Dogs, to have returned to the Vomit, they ſhall be altogether accounted unworthy of all Favour.* From whence the Author of the Book, *Concerning the Form of Proceeding againſt Perſons inquiſited for Hereſy*, of which *Calderine* is ſuppoſed to be the Author, infers, that ſuch Perſons are accounted Relapſed. Secondly, When after Abjuration and Purgation, the Criminal hath not performed the Penance enjoined him by the Inquiſitors. To this Purpoſe the Words of the Council of *Biterre* are cited. *Whoſoever ſhall lapſe again after ſuch* (general) *Abjuration, and they who do not obſerve and do the Penances enjoined them, let them be puniſhed as Relapſed. Bernard Comenſis* is of the ſame Opinion. *If Hereticks do not fulfil the Penance enjoined them after having abjured Hereſy*, Matthew *ſays, they ought to be accounted as Relapſed, and he alledges the Text*, Clem. 3. eod. tit. in fi. ibi, & ſatisfactionem habuerint. *He alſo cites* Cap. ad Abolendam. §. penult. *Pegna* notes, *That this Opinion, ſimply taken, is not true, but that many Heads muſt be diſtinguiſhed, that the Truth may be underſtood, as we have taught in our Directory of the Inquiſitors*, p. 3. q. 97. But between theſe and the former ſort of relapſed Perſons, there is this Difference, that the former are to be left without any Mercy to the ſecular Arm; but as to the latter, 'tis in the Inquiſitors Pleaſure to deliver them to the ſecular Judgment or not.

Lucern. *Inquiſ. in voce*, pœna pecuniaria.

However, all who do not obſerve the Penance enjoined them, are not promiſcuouſly accounted Relapſed. This Penance is either altogether contrary to Hereſy, *viz.* if the Penitent be commanded to abjure, to preach againſt his Errors, not to communicate with Hereticks, and the like. In this Caſe, if he doth not obey, they ſay he may be puniſhed as a Relapſe. Or the Penance tends to the Purgation of his Fault, *viz.* when Faſtings, Prayers, and other pious Works are enjoined the Penitent. In this Caſe he who doth not perform every Thing, may be puniſhed with an arbitrary Fine. But *Simancas* is of a different Opinion, who thinks ſuch Perſons to be obſtinate, impenitent, or any Thing rather than Relapſed; and that therefore Penance ought to be again enjoined them at the Pleaſure of the Judges, according to the Nature of their Crime.

Simanc. *tit.* 47. §. 77.

In like manner he who is condemned to perpetual Impriſonment, and eſcapes out of it, is generally accounted as a Relapſe, becauſe his Converſion ſeems to have been feigned, and he himſelf to have fallen into his former Error. *Bernard Comenſis* is of this Opinion. But *Simancas* rejects this Opinion as cruel and falſe, and ſays, ſuch a one is an Impenitent, but not a Relapſe. So that whilſt he continues his Eſcape, and doth not ſatisfy the Penance enjoined him, he may be condemned as an Impenitent. But if either he returns himſelf, or is apprehended, and ready to ſatisfy the Church, then he is to be enjoin'd a greater Penance upon account of his Eſcape, but is to be kindly received into the Boſom of the Church.

Simanc. *tit.* 16. §. 24, 25. Lucern. Inq. voce *Fugitivus.*

As to the Puniſhment of the Relapſed, the Council of *Tarragone* hath formerly thus determined. *Some Perſons doubt, whether Perſons relapſed into the Belief of Hereticks, and dogmatiſing Hereticks, ought to be left to the ſecular Judgment, if after they are apprehended they will repent. To us it ſeems that they ought not. But*

*in every ſuch Caſe they are to be condemned to Impriſonment.* Thus alſo *Guido Fulcodius*, in a certain Conſultation, anſwers. *But if, which God forbid, ſuch ſhould relapſe, they are not to be received without a publick Penance, which is elſewhere determined, unleſs it may poſſibly occaſion any Scandal, and a greater Diviſion, which we ought diligently to take Care of.* But the Council of *Narbonne*, *cap.* 11. thus determines. *As to thoſe, who, after their Abjuration of Error and Purgation, ſhall be found to have fallen again into the Hereſy they have abjured, leave them without farther hearing to the ſecular Judgment, to receive their due Puniſhment, ſince 'tis enough that ſuch have once deceived the Church by a falſe Converſion.* There is only this Difference, that if they repent, they are not denied the Sacraments of Penance and the Euchariſt. Cap. *Super eo.* de hæret. lib. 6. But in *Spain* the Euchariſt is generally denied to ſuch Relapſed, upon account of the Danger which may happen by the Alteration which he receives, who is to be delivered over to the ſecular Arm, and he is only allowed the Sacrament of Penance. Hence they ſay, that relapſed Penitents are reincorporated into the Church, which is done by the Sacrament of Penance; but that they are not reconciled to it, becauſe the Sacrament of the Euchariſt is neceſſary in order to it. But if they do not repent, they are delivered over to the ſecular Court as obſtinate Hereticks. But *Simancas* obſerves, that there are ſome "who think that relapſed Hereticks may ſometimes obtain Pardon, *viz.* when "any one really relapſed, and not yet accuſed, nor convicted by any Witneſſes, "ſecretly accuſes himſelf to the Inquiſitors, voluntarily confeſſes his Errors, "and with Tears aſks Mercy, being ready to undergo any Penance, becauſe "as to him there can't be that evil Suſpicion, by which relapſed Perſons are "preſumed to be feignedly converted. But *Simancas* himſelf is of Opinion, "that this can't be defended, unleſs it be helped out with a favourable Interpretation, becauſe the Judge is the Keeper and Miniſter of the Laws, and "not the Lord of them." We muſt not omit here, that Pope *Paul* IV. *Anno* 1555. by a Bull beginning, *Cum quorundam hominum*, commands, *that all and ſingular ſuch ſhould be accounted as relapſed into Hereſy, and delivered over as ſuch to the ſecular Court, even for the firſt Fault, who teach that God is not three in Perſons, that the Lord Jeſus is not conſubſtantial to the Father and the Holy Ghoſt; or that he was not conceived of the Holy Ghoſt; or that he did not undergo the Death of the Croſs to reconcile us to the Father; or that the Virgin* Mary *is not the true Mother of God; or did not preſerve her Virginity entire*, viz. *before, when, and always after ſhe brought him forth.*

Carena, *p.* 2. *t.* 1. §. 6. *n.* 41.

*tit.* 57. §. 8.

A Relapſe into the Favouring of Hereſy, is one who hath abjured ſuch Favouring, and afterwards relapſes into it, as the Council of *Tarragone* defines it. But whether this is to be underſtood, if they relapſe into the ſame Favouring, or into any other, and whether both, or the former only, are to be delivered over to the ſecular Court, and puniſhed with Death, the Laws do not clearly determine. And therefore ſome think it the ſafeſt way, in ſuch Caſe, to conſult the chief Pontiff, or the Senate of the general *Roman* Inquiſition.

The Council of *Tholouſe* hath thus determined concerning Perſons relapſed into the Favouring of Herefy, as this Decree is extant in the Book, *Concerning the*

*the Method of Proceeding againſt Perſons inquiſited for Hereſy. As to thoſe who were known to be Receivers, Defenders and Favourers, and have been reconciled, and ſworn to obey the Commands of the Church, and have fallen again into the Crime they have abjured, or obſtinately refuſe to receive and fulfil their Penances; if being afterwards admoniſhed, or not admoniſhed, they will humbly acknowledge their Guilt and amend, after receiving from them ſuch and ſo great Securities, beſides the Caution of an Oath, as may reſtrain them by the Fear of temporal Puniſhment, enjoin them ſuch Penance as may be a Terror to others. But otherwiſe proceed againſt them as far as ye can by Law.* Tract. Doctor. tom. 11. p. 2. fol. 417.

## CHAP. XIV.

### *Of ſuch who read and keep prohibited Books.*

BEſides theſe there are others, whoſe Crimes may be thought more properly to belong to another Court. But it ſometimes happens that they are ſaid to be ſprinkled with the Plague of Hereſy, becauſe they are ſuſpected of it, and therefore muſt be inquiſited upon account of their Intention. Amongſt theſe firſt occur thoſe who read and retain Books prohibited upon account of Hereſy. Theſe are numbered amongſt ſuſpected Perſons, and there are ſeveral ſevere Edicts of the *Roman* Pontiffs againſt them.

*Pius* V. publiſhed a Bull upon the Feſtival of *Cæna Domini*. In the firſt Chapter are excommunicated all Hereticks and Shiſmaticks, of whatſoever Name or Sect, and all Favourers, Receivers, and Believers of Hereticks, and thoſe who any wiſe knowingly read, keep in their Houſes, print, or in any wiſe defend, for any Cauſe, publickly or privately, under any Pretence or Colour, and in general all who defend their Books, without the Authority of the Apoſtolick See. *Pius* IV. recalled all Licences of reading and keeping ſuch Books, by his Conſtitution, which begins, *Cum pro munere*, March 24. 1564. By theſe Letters he commands, that all Perſons ſhall deliver and conſign over all condemned Books to the Inquiſitors of the Cities where ſuch Books are. In like manner thoſe who retain them cannot be excuſed, even though they keep them locked up in a Cheſt, ſo that no one can ſee or read them, becauſe all ſuch Excuſes are cut off by this Sentence, and by the alledged Conſtitution of *Pius* IV. Again, thoſe who print them are excommunicated; and alſo thoſe who in any wiſe, or for any Cauſe, publickly or privately defend heretical Books, *&c.* and the Abſolution of all ſuch Perſons is reſerved to the Pope. Compeg. in Zanch. c. 34.

And that all manner of Leave of reading even the leaſt Thing in a Book condemned for Hereſy, may be cut off, they declare that they underſtand not only printed Books, but even Manuſcripts and Parts of them, which they thus expound. He who reads that Part of the Books of Hereticks *&c.* Souſa *Aphor. Inquiſ. l.* 1. c. 21. §. 8.

that

that are divided into Tomes, which doth not profeſſedly contain Hereſy, is not accounted to read a Book prohibited by the Bull *Cœna*, even tho' the other Tomes ſhould be heretical. But if a Tome contains Hereſy, or treats of Religion, and it be divided into ſeveral Books, he who reads one of the Books of ſuch a Tome, is ſaid to read a Book prohibited by this Bull, even though the particular Book doth not contain Hereſy, nor treat of Religion, and is bound up ſeparately from the others. Yea, 'tis enough to ſay that a Perſon hath read a prohibited Book, if he only juſt runs it over with his Eyes, adverting to the Things written in it, though he doth not mention one Word of it with his Mouth. And yet, which is ſtrange, they add, that he who by Memory recites a prohibited Book, though he doth it with an evil Intention, is not accounted ſo to read it, as to incur the Cenſure pronounced againſt ſuch who do; ſo obſervant are they of the Letter of the Law; though at the ſame time he incurs the Cenſure of the Bull, who reads a Book prohibited by it, though he doth not do it with an ill Deſign, but out of pure Curioſity, or to confute the Errors of Hereticks. But to a Man's incurring the Penalty of Excommunication, 'tis neceſſary that he ſhould knowingly read it. So that Ignorance excuſes, but not when 'tis groſs and affected, *viz.* when a Perſon pretends not to know that the Author of a Book was an Heretick, although he knew the Book treated of Religion, or that the Book treated of Religion, although he knew the Author to be an Heretick. He who keeps the aforeſaid Books either in his own, or another's Houſe, whether he underſtands the Book or not, whether it be the whole or a part, even ſo much as a ſingle Leaf, whether he keeps it to read, or only for Curioſity and Ornament's ſake, or to exchange for other Books, or to wrap up what he ſells with the Leaves of it, incurs the Excommunication of the Bull. Likewiſe he who cauſes it to be printed, defends it, praiſes it, ſays 'tis not fit to be burnt or prohibited, or hinders its coming to the Inquiſitors Hands.

22. 23. 28. 33. 34.

36. 30. These are all ſuſpected concerning the Faith, and may be puniſhed by the Inquiſitors as ſuſpected. But if any one doth not deliver an heretical Book to the Inquiſitors, but burns it by his own Authority, he is not ſuſpected of Hereſy, though he falls into Excommunication; becauſe *Julius* III. by a Conſtitution, beginning, *Cum meditatio cordis*, commands, that ſuch Books ſhall be really and effectually delivered up to the Inquiſitors. When any one delivers up a Book to the Inquiſitors, he muſt be interrogated by them whence he had it. He who keeps an heretical Book, which hath not the Author's Name, is himſelf reputed the Author, unleſs he diſcovers his Name, and whence he had the Book. If any bring the Books of Hereticks, prohibited either for Hereſy, or falſe and ſuſpected Doctrine, to any Country of the Faithful, they are Favourers of Hereticks, incur Excommunication, have all their Goods confiſcated, and if they are mean Perſons, are whipped; but if they are of the better Sort, they are baniſhed at the Pleaſure of the Inquiſitors. But theſe are not the only Puniſhments uſed. Tyranny prepares the Way for greater Cruelty. If there ariſes a vehement Preſumption of Hereſy, upon account of any one's reading, retaining, defending, or printing the Books

Carena, *p.* 2. *t.* 10. *n.* 46. 39. 41. 42.

of

of Hereticks, and other additional Circumſtances, they can make uſe of the Torture to find out the Truth.

The Circumſtances are ſuch as theſe. If the Perſons inquiſited are learned. Secondly, If the Books contain Hereſies. Thirdly, If they have kept and read them a conſiderable Time, and with Care, and have imported them from diſtant Countries. Theſe Things render the Perſon vehemently ſuſpected, and he may be tortured concerning his Intention and Belief of heretical Propoſitions, and his Accomplices, from whom he had the Books, and may be forced to abjure upon account of the vehement Suſpicion, and be baniſhed at the Pleaſure of the Inquiſitors. Such who write out the Books of Hereticks, in order to print and publiſh them, and ſuch who ſell Paper and Ink for ſuch Writing and Printing, if it be knowingly, are Favourers of Hereticks, and may be arbitrarily puniſhed. Nor is he free from Puniſhment who reads and retains the Book of an Heretick, profeſſedly containing Hereſy, or treating of Religion, although he doth it with a Deſign to confute the Errors of it, and the holy Office is appriſed of ſuch Deſign. For Inſtance, if an Houſe be ſearched, and prohibited Books are found in it, and at the ſame time ſuch Writings as recite the Paſſages of ſuch Books, and confute the Errors of them; although ſuch a Perſon is free from all Suſpicion of Hereſy, and muſt not therefore be tortured or made to abjure, yet he is to be puniſhed, and falls into the Excommunication of the Bull *de Cœna*, becauſe he keeps the ſaid Books without Leave, and by his own Authority, but muſt therefore be abſolved from it again.

Carena, *p.* 2. *t.* 10. *n.* 44.

Souſa 43.

Carena, *n.* 28, 29.

This Interdict of reading prohibited Books is ſo univerſal, that it comprehends even the Clergy themſelves, and as moſt contend, the Biſhops and very Cardinals, who cannot read the ſaid Books without the Pope's Licence; becauſe all Licences and Privileges were revoked by *Julius* III. in a Conſtitution, beginning, *Cum meditatio*; and afterwards by a Conſtitution of *Paul* IV. beginning, *Cum futurum*; and of *Pius* IV. *Cum pro munere*; and by a Conſtitution of *Gregory* XV. publiſhed *Dec.* 30. 1623. beginning, *Apoſtolatus officium*; and finally by a Conſtitution of *Urban* VIII. publiſhed *Ap.* 11. 1631. this Revocation was often confirmed. Hence it is that this Penalty is appointed againſt the Clergy who retain and read prohibited Books, that they are vehemently ſuſpected, may be deprived of the active and paſſive Voice, ſuſpended from divine Services, deprived of the Offices of Reading, Preaching, *&c.* and farther be enjoined Faſtings, Pilgrimages, *&c.*

As to the Inquiſitors, ſome will have them not to be comprehended in the Bull; others, that they are as well as others, unleſs they have particular Leave from the Pope himſelf, or the Congregation of the Cardinals of the holy Office, who alone have the Power of giving this Licence, and not this unleſs it be in full Congregation, or at leaſt not without the major Part of the Cardinals be preſent. And even this their Power ſome ſo far reſtrain, as to contend that the College of Cardinals cannot grant it during the Vacancy of the See. But whatever the Power of the Cardinals Inquiſitors General in this Caſe is, 'tis limited by an expreſs Exception of the Books of *Charles Molinæus*,

12, 13.

9.

Souſa, l. 1. *c.* 21. §. 59.

*næus*, the reading of which the Pope only can allow; according to the Conſtitution of *Clement.* VIII. beginning, *Apoſtolicæ ſedis autoritati*, publiſhed *An.* §. 64. 1602. But in *Portugal* the Inquiſitors General may, by the Conceſſion of *Paul* IV. to Cardinal *Henry*, *Dec.* 10. 1560. grant Leave to the Inquiſitors and other Perſons of approved Life and Religion, if they are proper, and ſkilful and learned in Divinity, and not at all ſuſpected, to read any prohibited Books whatſoever, for this Reaſon only, to enable them to oppoſe and refute Here- §. 57. ticks. The ſame Power that is granted to the Inquiſitors, is alſo underſtood to be granted to the Deputies of the Inquiſition in the Kingdom of *Portugal.* Becauſe, as they enjoy the Privileges of Inquiſitors, and have a deciſive Vote in Cauſes, and are Judges in Cauſes of Hereſy, and can puniſh Hereticks, as well as burn their Books, they may read the ſame prohibited Books, which the Inquiſitors themſelves are permitted to read. This they may with much greater Reaſon do, who are of the Council of the ſupream Senate of the Inquiſition.

## CHAP. XV.

### *Of* POLYGAMISTS.

Carena, *p.* 2. *t.* 5. §. 2. POlygamiſts are thoſe who marry ſeveral Wives at once. The Tribunal of the Inquiſitors takes Cognizance of their Cauſe, becauſe they are ſuſpected of Hereſy, and are preſumed to think wrong concerning the Sacrament of Matrimony, and to hold it lawful to have ſeveral Wives at once.

§. 10. *n.* 55. When a Polygamiſt is in the Jayls of the holy Office, and he is known to be the ſelf ſame Perſon, either by his Confeſſion, or by Witneſſes, and when his Crime is proved, he is aſked, Whether he truly believes that it is, and hath been lawful for a Chriſtian Man, after the Evangelick Law, to marry ſeveral Wives at once? If he anſwers affirmatively, he is taken for a formal Heretick, and is to be puniſhed as ſuch. But if he anſwers negatively, and like a Catholick, denying that he had any heretical Intention, but was rather enticed to a ſecond Matrimony by the Luſt and Concupiſcence of the Fleſh, he muſt be put to the Torture concerning his Intention, that the Judges of the Faith may certify themſelves what the Polygamiſt truly thinks concerning the Faith, becauſe the Crime of Hereſy is ſecret, and lies hid in the Mind. This is peculiar to this holy Office; though, according to the Laws of it, they rightly apply the Torture. For ſince the Fact which the Criminal confeſſes, or of which he is convicted, may be committed without any Error of the Mind, but for ſome other Cauſe, for Inſtance, Concupiſcence, the Criminal is tortured concerning his Intention and Belief of thoſe Things which he hath done. And thus we ſee, that 'tis a ſmaller Crime in the Church of *Rome* to marry two Wives thro' Luſt and carnal Concupiſcence,

cupiſcence, contrary to the Dictates of Conſcience, than from ſome Error of the Mind, and with a Conſcience that doth not condemn the Fact.

Polygamiſts are ſuſpected of Hereſy. In *Spain* they are only lightly §. 11.
ſuſpected, and therefore, according to the general Cuſtom of *Spain*, they muſt abjure only as lightly ſuſpected. But in the ſupream Tribunal of the *Roman* Inquiſition, they are vehemently ſuſpected, and muſt abjure as ſuch.

Yea, ſuch who marry a ſecond Wife, being ignorant that the firſt is dead, *n.* 59.
but yet bring Witneſſes to prove that they had no Wife, although their actual Polygamy is not certain, yet they muſt abjure as vehemently ſuſpected, and be condemned to the Gallies. *Carena* gives us an Inſtance of a certain Perſon of *Bologna*, who had married his firſt Wife there, and afterwards, having examined Witneſſes, to prove he never had a Wife, married a ſecond at *Naples*, being ignorant whether the firſt was dead. This Man was brought before the Pope by the ſacred Congregation, *Octob.* 19. 1620. and being firſt put to the Torture concerning his Intention, he was forced to abjure as vehemently ſuſpected, and condemned to the Gallies for five Years. Becauſe, though his actual Polygamy was not certainly proved, yet, as to himſelf, he had conſummated the Crime.

But if any one, during the Life of his firſt Wife, betroths another, he is only lightly ſuſpected, and muſt therefore only abjure as ſuch. And they give this Reaſon of the Difference; becauſe, in this Caſe, there is no actual Abuſe of the Sacrament, but only an evil Diſpoſition of Mind to abuſe it.

After Abjuration theſe Polygamiſts are enjoined various ſalutary Penances by §. 13.
the Inquiſitors, ſuch as Faſtings, Prayers, and the like, after which, he who *n.* 61.
hath married two Wives, is condemned to the Gallies for five Years; and if he hath produced falſe Witneſſes to prove the Death of his former Wife, for ſeven Years and more, at the Pleaſure of the Inquiſitors, and is commanded to return to his firſt Wife. If they are of the ordinary ſort of People they are generally beat, and half their Effects confiſcated. And in ſome Places they have an infamous ſort of a Mitre put on their Heads, and are afterwards beaten. In *Spain* they are condemned to the Gallies for ten Years. If any one hath married thrice or more, he is more grievouſly puniſhed, and condemned for a longer while to the Gallies. Thus at *Rome*, *May* 18. *An.* 1597. four Polygamiſts were condemned to the Gallies in the Church of St. *Mary ſupra Minervam*, by the ſupream Tribunal of the *Roman* Inquiſition, two of them for ſeven Years, who had married three Wives, and the other two for five Years, who had married two.

## CHAP. XVI.

### *Of thoſe who celebrate and adminiſter the Sacrament of Penance, not being Prieſts.*

Souſa, *l.* 1. *c.* 32. *n.* 7. HE who celebrates Maſs, not being in Presbyters Orders, is ſubject to the Judgment of the Inquiſitors, and oppoſes in Fact the Catholick Verity, according to the Conſtitution of *Gregory* XIII. beginning, *Officii noſtri.* The Evil of this Crime, according to *Souſa*, reaches to Idolatry, becauſe thoſe who thus celebrate, make the Faithful of Chriſt to adore Bread and Wine, as though it were the true Body and Blood of our Lord.

In like manner he who is no Prieſt, and yet hears Confeſſions, and gives Abſolution, is ſaid to abuſe the Sacrament, and greatly to injure his Neighbour.

Carena, *p.* 2. *t.* 11. §. 1. Such are vehemently ſuſpected of Hereſy, becauſe they think, at leaſt as to the very Fact, that other Perſons beſides Prieſts may be the Miniſters of thoſe Sacraments.

Such Criminals are to abjure as vehemently ſuſpected, and are then delivered over to the ſecular Arm to be puniſhed with Death; but are firſt degraded §. 6. *n.* 30. from their Orders if they are in any. Thus *An.* 1636. and the following, two of theſe Criminals were delivered over to the ſecular Court at *Naples*, and by Order of the holy Council firſt hanged, and then burnt.

§. 7. *Urban* VIII. commanded by a Letter of Cardinal *Mellinus*, to the Inquiſitor General of *Portugal*, *March* 5. 1622. that Criminals confeſſing, or convicted of this Crime, ſhould be abſolutely delivered over to the ſecular Arm, and puniſhed with Death. But in as much as before theſe Letters they were not puniſhed with Death in *Spain*, according to the Conſtitutions of *Gregory* and *Clement*, ſo *Souſa* affirms, that he never ſaw this Puniſhment inflicted in Souſa, *l.* 1. *c.* 32. *n.* 13. the Kingdoms of *Spain*, after the ſaid Letters of Cardinal *Mellinus*. But this was the Method of Puniſhment there generally made uſe of, *viz.* that if the pretended Prieſt was a Layman, or vile Perſon, he was beat, and ſent to the Gallies, and enjoined ſome ſpiritual Penances. Or if he was a Perſon of Credit, or a Religious, he was ſent to the Gallies. If of ſuch Quality as that he could not be ſent to the Gallies, he was baniſhed; and, if in any Order, ſuſpended from it the whole Time of his Baniſhment. If the Offence was attended with any aggravating Circumſtances, they add other Puniſhments according to their Quality.

We have an Inſtance to this Purpoſe in the Book of Sentences of the *Thouloſe* Inquiſition, *fol.* 122. A certain Countryman called *Rolland*, believed he had a Power from the Lord to celebrate Maſs, and to conſecrate the true Body of Chriſt from common Bread, and the true Blood from Wine mixed with Oyl and Salt, in a wooden Bowl that had a Foot to it, which he uſed inſtead of a Chalice. And thus he every Day ſacrificed ſecretly in his own

Houſe

Houſe, upon a Coffer covered over with a Linnen Cloth, and often communicated of that Bread, believing it to be the true Body of Chriſt. After four Years he was thrown into Priſon, and was very difficultly prevailed with to abjure his Error. But whilſt he was in his Impriſonment, he was found to have relapſed into the ſame Error, and to have repeated this Ceremony. But before he was puniſhed as a Relapſe, he died in Jayl, without a Confeſſion of his Sins, and the Sacrament of the Euchariſt. The Inquiſitors commanded his Body to be taken up and burnt.

*Raynald* gives us another Inſtance of one, who did not indeed celebrate or adminiſter the Sacrament of Penance as a Prieſt, though he really was none, but who ſaid he was a Biſhop, though he had not the Pope's Bull, and as ſuch conſecrated Prieſts. And becauſe he was made an Example of extream Cruelty, I will here relate the Matter exactly as I find it in his Annals.

" *James* the Prieſt, a falſe Minorite, born in the Dutchy of *Juliers*, forged " the Pope's Bull, and declared in the *Netherlands* that he was a Biſhop; " and although he had not been ordained a Biſhop, he conſecrated Prieſts " by a falſe Ceremony in ſeveral Dioceſes of *Germany* and the *Low Countries*. " At length he was convicted of his Wickedneſs, and the Magiſtrates of *Utrecht* " thought fit, not to condemn him to the Flames, that he might be quickly " conſumed, but to be gradually burnt by boiling Water, that ſo they " might conquer his Obſtinacy, becauſe he moſt impudently refuſed to " acknowledge his Crime. But being gradually let down into the boiling " Cauldron, and overcome with the Extremity of the Pain, he deteſted his " Wickedneſs, and pray'd that he might receive a milder Puniſhment. His " Judges being moved with Compaſſion, ordered him to be taken out of the " boiling Cauldron, and then to be beheaded." *Heda* tells the ſame Story in fewer Words, in the Life of *Florentius*, the fiftieth Biſhop of *Utrecht*. " A cer- " tain Perſon of the Profeſſion of St. *Francis*, took upon him the Character " of a Prieſt and Biſhop, and of Suffragan to Biſhop *Florentius*. And having " for a long while performed all ſacred Offices, it was at laſt diſcovered, that " his Character and Letters were forged. Upon this he was deprived, and " condemned to be put in boiling Water. But as ſoon as ever he was thrown " into it, he moved, by his Cries, the Compaſſion of the Biſhop, and was " immediately taken out, and being beheaded, obtained the Favour of Bu- " rial. Moſt of thoſe who were conſecrated by him, were reconſecrated by " ſome other Biſhop, whilſt others returned to the World and married, all his " Acts being null and void."

In the Records of the Chapter of St. *Saviour*'s at *Utrecht*, in the forecited Book, *fol.* 105. *&* *ſeq.* this very Story is to be read, and the Sentence againſt the ſaid *James* is added; and becauſe it gives us a juſt Account of the Cuſtom of that Age, I will here faithfully tranſcribe it, as I find it in the ſaid Book.

" In the Year of our Lord 1392. *Sept.* 30. one *James*, of the Order of the " Friars Minor, a Presbyter, born in the Dutchy of *Juliers*, was verbally " and actually degraded, in the Manner under-recited, in the City of *Utrecht*,

" upon a certain Scaffold built of Wood, in the Market-place of the City, " which they call *Noede*, becauſe he aſſumed to himſelf, by certain falſe A- " poſtolick Letters which he had forged, the Title and Name of the Biſhop " of *Laubatch*, and being for ſome time taken as a Suffragan to the Biſhop of " *Utrecht*, had preſumed to celebrate and exerciſe the leſſer and greater Or- " ders, and other Epiſcopal Functions in the ſaid Biſhop's Dioceſe, and for " ten Years before that in the Dioceſes of *Treves*, *Mayence*, and *Strasburg*. After " his Degradation, he was delivered over as a Laick to the *Scultet* and *Sca-* " *bines* * of *Utrecht*, who were preſent, and received him into their Court; and " by their Sentence, *Florentius*, Lord Biſhop of *Utrecht*, preſiding in the " ſaid Place, the ſaid *James* was condemned to be burnt with Fire, in a Caul- " dron, made ready for that Purpoſe near the Scaffold. But he was at laſt " graciouſly taken out of the Cauldron, and beheaded in the ſame Place.

" And therefore the aforeſaid Lord *Florentius*, and the ſix under-written " Biſhops, more being met together, and each of them robed in their *Pon-* " *tificalibus*, and ſeated on the aforeſaid Scaffold, Maſter *Arnold Pot*, in their " Stead, and at their Command, pronounced this Sentence againſt the ſaid " *James*.

*In the Name of God, Amen.* Florentius de Wevelichoven, *by the Grace of God and the Apoſtolick See, Biſhop of* Utrecht, *and alſo by the ſame Grace,*

| | |
|---|---|
| Arnoldus, *Biſhop of* Capitolias. | Wenemarus, *Biſhop of* Sibula. |
| Hubert, *Biſhop of* Opinum. | Bertoldus, *Biſhop of* Lindavv. |
| Andrew, *Biſhop of* Moſcow. | *and*, James, *Biſhop of* Sarrepte. |

*Judges together in the under-written Affair. The Empire of Reaſon preſiding in the Mind of the Judge, Juſtice ſits upon the Tribunal in the Examination of Truth, and the Righteouſneſs of the Judges, as a King upon the Throne, out of whoſe Mouth proceeds a two-edged Sword. By the terrible Aſpect of which the Pleaſure of a Man's own Will is ſcattered, and the criminal Appetite of the Wicked, without Reſpect of Perſons, is limited under the Rule of the Law. For this hath been taken Care of by the Judge, from whoſe Countenance right Judgment proceeds, that Judges ſhould be appointed in the World, who ſhould love Righteouſneſs, judge the Children of Men, and puniſh Offenders, according to the Meaſure of their Fault. Attending therefore with great Grief of Heart to thy heinous Wickedneſs, unheard of in all Ages, which thou haſt committed, who art the Head of Scandal, and Rock of Offence, and with frequent Sighs and Groans recounting the moſt unhappy Boldneſs of thy Raſhneſs, which even diſturbs the Heaven, and makes the very Earth to tremble, we are forced, Juſtice demanding it, to proceed againſt thee, to that juſt Puniſhment and Revenge which thou haſt deſerved. Having therefore called on the Name of Chriſt, ſitting on our Tribunal, and having God only before our Eyes, and having taken the Counſel of prudent and skilful Perſons; whereas by thy Confeſſion, and by other Proof, it evidently and legally appears to us, that thou haſt forged Apoſtolical Let-*

* The chief Magiſtrates and Officers of the City.

*ters,*

*ters, and haſt impudently and damnably preſumed to uſurp and aſcribe to thy ſelf raſhly and fallaciouſly the Title of the Pontifical Dignity, and to confer on great Numbers of Perſons the greater and leſſer Orders, to perform Chriſms* †, *to conſecrate Churches, Chapels and Altars, to reconcile Perſons, and confirm them, by anointing them on the Forehead, and to exerciſe other Offices incumbent on the Miniſtry of the Pontifical Dignity, under a falſe and feigned Epiſcopal Title, in the Dioceſes of* Treves, Mayence, Straſburgh *and* Utrecht, *and in other Places, for the Space of ten Years and more, although thou waſt not a Biſhop, and in Fact art not, to the great Danger of thy own Soul, and the Souls of many others, and to the Injury and Contempt of the whole Catholick and Univerſal Church; even although we* Florentius *Biſhop of* Utrecht, *out of the Motion of our Clemency, have thought fit to indulge thee for a long while with Space for Repentance, whilſt thou haſt been kept in Cuſtody in our Jayl, that thou mighteſt ſtudy to appeaſe the Anger of the moſt High, whom thou haſt grievouſly offended with thy horrible Impieties, and with devout and frequent Prayers and Tears mighteſt endeavour to obtain his Mercy. But thou being ignorant to return to a ſound Mind, and to bring forth thoſe Fruits meet for Repentance, which we have long expected, with an hardened Heart, and obſtinate Mind, haſt not been afraid, we ſpeak it with Grief, to deſpiſe the Space mercifully granted by us to thee for thy Repentance, even to this preſent Time, to the Loſs of thy own Salvation. Therefore we* Florentius, *and the other Biſhops above named, being ſpecially and preſentially called, and met together to this preſent Act, upon account of thoſe Things which we have ſeen, heard and known, and do know and underſtand, do perpetually degrade, depoſe and deprive thee, being legally cited to the ſaid Act, from all Eccleſiaſtical Orders, and the Prieſtly Office, as a Falſifier of Apoſtolick Letters, an Abuſer of the Eccleſiaſtical Sacraments, an Enemy of Souls, a Deſtroyer of the Faithful, and a Tranſgreſſor of the ſacred Canons, and we ſententially condemn thee thus actually to be degraded, and at length degraded, to be left to the ſecular Court, and then to be puniſhed without danger of Death.*

" After the aforeſaid Sentence pronounced on him, being preſent, the degraded Perſon was carried down, and cloathed with the ſacerdotal Veſtments, carrying the Chalice, *&c.*" After this follows a long Account of the Degradation in the ſaid Book. But as I ſhall profeſſedly treat of this Degradation in the following Book, I ſhall there together and at once give an Account of this whole Affair, and ſay nothing of it here, that I may not repeat the ſame Thing.

† *Criſmata conficere*, is to conſecrate the holy Oils which were uſed in the Church of *Rome*. Theſe were principally two. One that was made of Oil and Balſom, which is the principal Sort. Thoſe who were baptized were anointed with it on the Top of the Head; thoſe who were confirmed on the Forehead, as were alſo thoſe who were ordained. The other is Oil without any Mixture, conſecrated by the Biſhop, with which the *Catechumens* were anointed upon their Breaſt, Shoulders and Forehead, before their Baptiſm. Sick and poſſeſſed Perſons alſo were anointed with the ſame Oil.

CHAP.

## CHAP. XVII.

### *Of Soliciting* CONFESSORS.

Souſa, *l.* 1. *c.* 34. §. 1. Carena, *p.* 2. *t.* 6. §. 1.

BY theſe are underſtood ſuch Confeſſors, who, in the Sacramental Confeſſion, ſolicite and provoke, or attempt to ſolicite and provoke Women to diſhonourable Actions. *Paul* IV. *An.* 1561. *Ap.* 16. publiſhed a Bull againſt ſuch Perſons, directed to the Arch-Biſhop of *Seville*, beginning, *Cum ſicut ſuper*, and *Pius* IV. another, *Ap.* 6. 1564. and the ſupream Inquiſitors General an Edict, approved by *Clement.* VIII. But thoſe Bulls, and that Decree ſeem only to take place in *Spain*, becauſe the Bulls were directed to the Arch-Biſhop of *Seville*, and the Decree of the ſacred Congregation expreſsly reſtrained to the Places of *Spain*. But in the Year 1612. in the Month of *April*, it was decreed by *Paul* V. that all the Inquiſitors ſhould be admoniſhed to command the Confeſſors, to abſtain from all and every ſort of Solicitation, and to proceed rigorouſly againſt all thoſe who did not. And finally, there is extant a Conſtitution of *Gregory* XV. publiſhed *Aug.* 30, 1622. beginning, *Univerſi dominici*, in which he confirms the Letters or Bull of *Paul* IV. and commands it to be firmly and inviolably obſerved, not only in the Kingdoms of *Spain*, but in all other Parts of the Chriſtian World. And becauſe the Words of that Bull about the Middle of it, *Whatſoever Perſons, and whoſoever they ſhall be which they ſolicite*, are general, from this Generality of the Words they conclude that they extend alſo to Confeſſors, who ſolicite Boys in the Sacramental Confeſſion.

The Incontinence of the Prieſts gave Occaſion to theſe Edicts and Bulls, *viz.* becauſe, as the Words are in the Bull of *Paul* IV. *Certain Prieſts in the Kingdom of* Spain, *and in the Cities and Dioceſes thereof, having Cure of Souls, or exerciſing ſuch Cure for others, or otherwiſe deputed to hear the Confeſſions of Penitents, have broken out into ſo heinous an Iniquity, as to abuſe the Sacrament of Penance in the very Act of hearing Confeſſions, and thus are not afraid to injure this Sacrament it ſelf, and him who hath appointed it, the Lord God and our Saviour Jeſus Chriſt, by enticing and provoking, or trying and procuring to entice and provoke penitent Women to lewd Actions, whilſt they are hearing their Confeſſion.*

Gonſalv. *p.* 185.

When this Bull was firſt brought into *Spain*, all Perſons were commanded by a publick Edict, ſolemnly publiſhed throughout all the Churches of the Arch-Biſhoprick of *Seville*, that whoſoever knew or had heard of any Monks or Clergymen who had abuſed the Sacrament of Confeſſion to theſe Crimes, or had in any manner acted in this vile Manner at Confeſſion with their Daughter or Daughters, they ſhould diſcover him within thirty Days to the holy Tribunal; and very grievous Cenſures were annexed to ſuch as ſhould neglect or contemn it. When the Decree was publiſhed, ſo large a Number of Women went to the Palace of the Inquiſitors in the City of *Seville* only, to make their Diſcoveries of theſe moſt wicked Confeſſors, that twenty Secretaries, with

with as many Inquiſitors, were not ſufficient to take the Depoſitions of the Witneſſes. The Lords Inquiſitors being thus overwhelmed with the Multitude of Affairs, aſſigned another thirty Days for the Witneſſes; and when this was not ſufficient, they were forced to appoint the ſame Number a third and a fourth time. For as to Women of Reputation, and others of higher Condition, every Time was not proper for them to apply to the Inquiſitors. On one hand their Conſcience forced them to a Diſcovery through a ſuperſtitious Fear of the Cenſures and Excommunication; and on the other hand, their Regard to their Huſbands, whom they were afraid to offend, by giving them any ill Suſpicion of their Chaſtity, kept them at home; and therefore veiling their Faces after the *Spaniſh* Cuſtom, they went to the Lords Inquiſitors, when, and as privately as they could. Very few, however, with all their Prudence and Craft, could eſcape the diligent Obſervation of their Husbands at the Time of Diſcovery, and hereby poſſeſſed their Minds with the deepeſt Jealouſy. However, after ſo many had been informed againſt before the Inquiſitors, that holy Tribunal, contrary to all Mens Expectations, put a Stop to the Affair, and commanded all thoſe Crimes which were proved by legal Evidence, to be buried in eternal Oblivion.

In the mean while this Crime, according to the Bulls and Edicts of the Popes, ought to be judged and puniſhed before the Tribunal of the Inquiſitors. Theſe Edicts are generally ſo interpreted by the Doctors, as to comprehend §. 5.
thoſe who ſolicite by other Perſons, *viz.* when they ſolicite a Woman to be Procureſs. For the Words of the Bull are, *To be committed either by themſelves, or with others:* As alſo to comprehend all lewd Actions, whether compleat or not. As for Inſtance, when a Prieſt doth not ſolicite a Woman, but a Woman her Confeſſor, and he not only yields to the Perſuaſions of the Woman, but at her Perſuaſion doth any diſhonourable Action in the Confeſſion it ſelf. Souſa, *l.* 1. *c.* 34. §. 9.

It is required however, that the Solicitation be made in the Act of Sacramental Confeſſion, or immediately before or after it, *i. e.* that no Act intervene between the Solicitation and Confeſſion. Hence they do not count it an immediate Act, if a Woman coming to confeſs is prevented by her Confeſſor, and perſuaded to put off her Confeſſion to another Time, and when ſhe hath changed her Intention of Confeſſing, is ſolicited by her Confeſſor. Such a one however, is comprehended in the Conſtitution of *Gregory*, becauſe he ſolicites under the Pretence of Confeſſion. Nor is an Act immediate, if a Woman deſiſts from her Purpoſe of Confeſſion after the Confeſſion is actually begun, and ſays to her Confeſſor, ſhe will not confeſs any more, but talk with him, and the Solicitation immediately follows in a long Diſcourſe, provided there be no Pretence of Confeſſion, if the Solicitation be made by the Confeſſionary; or if when the Confeſſion is ended, the Confeſſor follows the Woman to her own Home, and there at any intervening Time ſolicites her. 31. 32. 33.

'Tis therefore neceſſary to conſtitute an immediate Act, that it include Confeſſion by ſome depending Circumſtance or other. *Souſa* enumerates ſix Caſes, which include Confeſſion. "First, If a Woman, not intending to ſo- 36, &c.

"licite

" licite her Confeſſor, but to make a full Confeſſion, accuſes her ſelf, by " diſcovering a luſtful Mind towards the Confeſſor himſelf, or towards any " other Perſon, and the Confeſſor ſays, We will talk of this when your Con- " feſſion is ended, and then immediately ſolicites her. Secondly, If a Con- " feſſor perſuades a Woman to confeſs to him with an Intention of ſoliciting " her, and immediately after the Confeſſion tempts her to diſhonourable " Actions. Thirdly, If immediately after Confeſſion he ſays to the Peni- " tent, repeating the Sin confeſſed by her, ſince you have carnally lain with " another Perſon, do me alſo the Favour and lay with me. Fourthly, if a " Confeſſor ſolicites a Boy, after he hath confeſſed and abſolved him, by car- " rying him immediately, after Confeſſion, into his Houſe or Chamber, to " give him a ſigned Copy of his Confeſſion. Fifthly, If a Confeſſor enjoins " Penance to a Woman that hath confeſſed to him, *viz.* to be whipped na- " ked by the Confeſſor himſelf, and when the Penance is to be done, he him- " ſelf whips her with his own Hand or with a Scourge. Sixthly, If a Confeſſor " perſuades a Woman to ſhew her Privy Parts to him, which, in her Confeſ- " ſion, ſhe declared to be affected with a certain Diſeaſe."

'Tis the ſame with thoſe, who, tho' they do not ſolicite in the very Act of Confeſſion, yet do it in the Place appointed to hear Confeſſion, according to the Conſtitution of the General Inquiſition, before *Paul* V. *July* 10. 1614.

Carena, §. 9. Women thus ſolicited are admitted to prove this Offence, *viz.* if the Woman be of an approved Life, and the Confeſſor be given to the Sins of the Fleſh; but not if the Woman be ſcandalous, and a Whore; and if they do not appear voluntarily before the Inquiſitors, but are forced by their Confeſſors, upon their Refuſal to abſolve them, unleſs they diſcover the evil Confeſſor. Hence it comes to paſs, that the Depoſition of ſeveral Women is not *n.* 59. ſufficient for the Conviction of a Confeſſor. Thus *Carena* reports, that by Order of the ſacred Congregation of the ſupream *Roman* Inquiſition, a Pariſh Prieſt at *Naples* was not accounted as convicted, though ſeveral Women depoſed that he had ſolicited them, moſt of whom he had attempted by Touches and Signs, and one by Words. He was only tortured by Order of the ſame Congregation, and, confeſſing nothing, ſuſpended for a Year from his Cure.

§. 12. However, the Depoſition of a Woman only is not ſufficient Proof for the Apprehenſion or Torture of the Confeſſor, unleſs he himſelf hath a bad Character, becauſe they never proceed to torture, unleſs the Crime be half proved. So that as they teach, ſince two Women are not enough to make a full Proof, one cannot be ſufficient for the half Proof.

§. 14. But if the Crime be half proved, the Confeſſor may be tortured, to make him confeſs the Act. If he confeſſes it, or is fully convicted of it, and denies an heretical Intention, he is to be tortured as to his Intention, *viz.* to diſcover whether he believed, that it was lawful to abuſe the Sacrament of Penance to laſcivious Actions, and to uſe the Sacrament as a Means to obtain ſuch Purpoſes.

In

In *Spain* these soliciting Confessors are only lightly suspected, because the *Spaniards* consider it rather as proceeding from Lust than an Intention to abuse the Sacrament of Penance. But in *Italy* they are vehemently suspected; and therefore whereas in *Spain* they abjure only as lightly suspected, in *Italy* they abjure as vehemently. So *Carena* gives an Instance of a certain Confessor in one of the Cities belonging to the Territories of *Cremona*, who abjured as lightly suspected for this Crime of Soliciting, but was forced to abjure again as vehemently suspected at *Cremona*, by Order of the supream Tribunal of the City of *Rome*. §. 15. n. 75.

Besides salutary Penances, such as Fastings, Prayers, and the like, such Confessors are usually condemned to the Gallies for five or seven Years, to perpetual Imprisonment; yea, sometimes at the Pleasure only of the Cardinals supream Inquisitors, they may be delivered over to the secular Arm, as the Constitution of *Gregory* XV. plainly directs. They are also to be suspended for ever from hearing Confessions, to be deprived of their Benefices, Dignities, active and passive Vote, at the Pleasure of the Inquisitors. Such Confessors as are Regulars, may also be enjoined to be in the last and lowest Place amongst the Regulars of their Monasteries. Sometimes the Inquisitors must command, that the Sentence against a Regular Confessor shall be read publickly in the next general Chapter of their Religion, as a Terror and Example to others. §. 18.

[Yea sometimes, according to the Heinousness of the Offence, a more grievous Punishment is inflicted. *John Stock*, Notary of the Apostolick *Rota*, relates, in a Letter written at *Rome*, *October* 8, 1564. to *J. Hensberg*, a Divine of *Cologn*, a remarkable Instance of this. *These Wretches of ours are not so holy as they appear. They walk in the Likeness of Sheep, but within are ravening Wolves, and their pretended Sanctity is a double Iniquity. They are under the Influence of a strong Ambition. The* Venetians *ordered one of them to be burnt alive, by Command of the Pope. He had been Father Confessor to some Nuns in the Dominions of* Venice, *and had got twelve of them with Child, amongst whom the Abbess and two others had Children in one Year. As he was confessing them, he agreed with them about the Place, Manner, and Time of lying with them. All were filled with Admiration and Astonishment, taking the Man for a perfect Saint, he had so great a Shew of Sanctity in his very Face.* Epist. ad Belgas, Cent. 1. Ep. 66. p. 345. and Ep. 63. p. 316.]

In *Portugal* also the Crime of Sodomy belongs to the Tribunal of the Inquisition, by the Decree of *Gregory* XIII. *Aug.* 13. *An.* 1574. by which 'tis granted to the Inquisitor of *Portugal*, to proceed in the Crime of Sodomy, as in the Crime of Heresy, observing the same Manner and Form. By the Laws of the Kingdom of *Portugal*, Sodomites are punished with Death, and Confiscation of all their Effects, and their Children and Grandchildren become infamous. After the natural Death of a Sodomite, if the Crime hath not been proved, they cannot proceed against him, neither as to the Crime, nor Confiscation of Effects, although the Crime can be proved by legal Witnesses. Because Crimes, which are not particularly excepted, of Sousa, *Aphor. Inquis. l.* 1. *c.* 59. §. 29, 30. §. 31.

which *Sodomy* is one, are extinguiſhed by the Death of the Delinquent.
§. 32. Nor do they proceed againſt a dead Sodomite, nor confiſcate his Effects, or
*l.* 2. *c.* 26. although he hath been convicted or confeſſed when he was alive. If ſuch a
§. 30. one takes Sanctuary in a Church, he can't be taken out of it.

If we compare theſe Things with the Puniſhments of Hereticks, as related in the ſecond Chapter of this Book, it will appear, that the Crime of Sodomy in the Kingdom of *Portugal* is eſteemed a much ſmaller one than that of Hereſy, becauſe Sodomites enjoy Privileges which are denied to Hereticks. And yet it may happen, that a truly pious Man, who fears God, and is moſt careful of his eternal Salvation, may be accounted an Heretick by the *Portugueſe* Inquiſitors, whereas a Sodomite cannot but be the vileſt of Men. But 'tis not at all ſtrange, that by the Laws of that Tribunal, *Barabbas* ſhould be releaſed, and Chriſt crucified.

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## CHAP. XVIII.

### *Of one that is inſordeſcent in Excommunication.*

Carena, *p.* 2. *t.* 8. §. 2. A Man is ſaid to be inſordeſcent in Excommunication, who, after he hath been by Name declared Excommunicate, perſiſts in that Excommunication for a Year. The Nature of this Crime requires Obſtinacy of Mind, including the Contempt of the Keys. This they infer, when the excommunicated Perſon hath had Knowledge of the Excommunication, and taken no Care to obtain Abſolution. For if within a Year he endeavours to obtain Abſolution, though he ſhould not actually receive it; or if there be any real Hindrance that prevents his Appearance, he is not judged guilty of Contempt.

§. 3. He who thus perſiſts in his Excommunication, is accounted as confeſſed and convicted of the Crime for which he was excommunicated; nor is he to be any farther heard, unleſs he can demonſtrate his Innocence with new Proofs. If the Crime for which he was excommunicated be of the Number of thoſe, which do, *ipſo jure*, infer Privation, he muſt be deprived of his Benefice for Inſordeſcence. But if it be ſuch a Crime for which the Delinquent is to be deprived of his Benefice, but not *ipſo jure*, in ſuch a Caſe he is alſo to be deprived for Inſordeſcence.

§. 5. *n.* 19. He who thus perſiſts in Excommunication, is violently ſuſpected of Hereſy. For if there be only a light Suſpicion of Hereſy againſt any Perſon, and if when cited he is obſtinate, the Suſpicion then begins to be vehement. If through Contumacy he continues in Excommunication for a Year, the vehement Preſumption becomes violent, and thus he may be taken for an Heretick, and puniſhed as ſuch. Becauſe, from thus perſiſting, there ariſes a Preſumption of the Law, and *de jure*, by which the Crime of Hereſy is ſufficiently proved.

But

But that ſuch a one may be condemned as an Heretick, he muſt not fail to n. 21.
be cited, in order to purge himſelf from the Suſpicion of Hereſy, becauſe he continued for a Year in Excommunication.

If ſuch an excommunicated Perſon appears when the Year is elapſed, and n. 23.
deſires to prove his Innocence, before he is declared an Heretick, he muſt 24.
be admitted to Trial. Yea, as ſome affirm, he muſt be heard even after he is declared an Heretick, and his Effigies burnt.

If when he appears, and doth not prove any legal Impediment, but only § 8.
his Innocence as to the Hereſy for Suſpicion of which he was cited, altho' he is to be abſolved from the Hereſy, yet he is to be tortured to diſcover his Intention, upon account of a vehement Suſpicion of his Contempt of the Keys of the Church, and muſt abjure as one vehemently ſuſpected. If neither a legal Impediment nor his Innocence appear, he is to be dealt with as one vehemently ſuſpected of Hereſy, and of the Contempt of the Keys.

If he proves nothing, and is impenitent, or relapſed, he is to be left to the ſecular Court. If he is penitent he muſt abjure, according to ſome, as vehemently ſuſpected; according to others, formally. Beſides, wholeſome Penances are to be enjoined him, and he may be condemned, according to the Nature of his Crime, to more grievous Puniſhments, and eſpecially pecuniary ones.

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## CHAP. XIX.

### *Of* BLASPHEMERS.

THere are two Sorts of Blaſphemers. Some who do not utter heretical Blaſphemies, who do not belong to our Hiſtory; and others who throw out Blaſphemies that are heretical, and who are therefore ſubject to the Judgment of the Inquiſitors. *J. Royas* argues concerning them in this manner. " 'Tis very often a Matter of Doubt in the Court of the Inquiſition, " what Blaſphemies may be ſaid to be heretical, to make the Cogniſance of " them belong to the Inquiſitors. But, according to the common Cuſtom, " and agreeable to Law and Reaſon, theſe Words are heretical, *I deny God*, " *I do not believe in God*. In *Spaniſh*, *Diſcreo de Dios*, *reniego de Dios*, *o reniego* " *de la fe*, *o de la cruz*, *o Criſma a que teng o en la trente*, *o reniego de la pu* " *ridad de nueſtra ſenora*, i. e. *I do not believe in God*, *I deny God*, *or I deny* " *the Faith*, *or the Croſs*, *or the Chriſm*, *which I have received in my Forehead*, " *or I deny the Virginity of our Lady*. Theſe Words are ſaid to be heretical " Blaſphemies, and the Inquiſitors have Cogniſance of them, becauſe they " have an Infidel Signification, and Denial of the Faith, and are directly " oppoſed to a Confeſſion of the Faith. But other Blaſphemies, *viz. Peſe a* " *Dios*,

Eymer. p. 2. Q. 41.

Royas, p. 2. aſſert. 12. §. 170.

" *Dios, por vida de Dios, voto a Dios, malgrado aya Dios, o deſpecho de Dios,* " and the like, *i. e. let it trouble God, by the Life of God, I vow to God, God's* " *Curſe on you,* or *God ſpite you,* are not heretical, becauſe not oppoſed to a " Confeſſion of the Faith, although they are abſolutely Blaſphemies. The
Carena, p. 2. t. 7. §. 8. " Puniſhment of theſe belongs to the ordinary Judges." In *Italy* alſo 'tis " not reckoned Blaſphemy: if any one ſays, *Al corpo di Dio, o dira vel pu-* " *tana di Dio becco; vel al diſpetto di Chriſtophero,* or *putana della virgine Gio-* " *vanna;* i. e. *Body of God, or he will ſay,* &c. *or in ſpite of St.* Chriſtopher; *or the Whore of the Virgin* Joan.

'Tis diſputed amongſt the Doctors whether this be Blaſphemy, *Al diſpetto, che non vo dir di dio,* or, *putana, che no vo dir della V. M. In ſpite, not meaning God; or Whore, not meaning the Virgin* Mary; which ſome deny, and others affirm. But theſe are accounted heretical Blaſphemies: *Dio parteſano, & putana della Virgine,* i. e. *The Whore of the Virgin,* altho' the Word *Mary* is not pronounced; as is alſo this; *Dio becco diavolo,* if pronounced by any one who is accuſtomed to utter heinous Blaſphemies againſt God.

§. 173. According to *Royas,* " Heretical Blaſphemy, though ſpoken conditional- " ly, is to be puniſhed by the Inquiſitors of the Faith; as for Inſtance, " *I do not believe in God unleſs I will ſtrike you.* Becauſe this conditional " Blaſphemy contains in it a pure affirmative Implicitenes, *viz.* that if he " could not kill him without not believing in God, he was prepared wil-

§. 179. " lingly to do ſo. They alſo proceed very ſeverely againſt an execrable " Cuſtom that hath crept into the Kingdoms of *Arragon* and *Valencia, viz.* " of ſwearing by the Members of God, which is greatly blaſphemous; and " by the Members of Chriſt, which is great Irreverence, and from both " theſe there ariſes great Suſpicion of Hereſy." To theſe may be added that execrable Species of Blaſphemy, related by *Arnold Albertinus,* in his Book *de Agnos. Aſſert. hæret. Qu.* 6. §. 21.

Theſe Blaſphemies, according to the Quality of the Words and Perſons, and the Circumſtances of Times and Places, are eſteemed more or leſs wicked and horrible. *Pegna* " thinks thoſe are to be reckoned amongſt the greateſt, " which are uttered againſt the moſt holy *Mary,* Virgin Mother of God. " And altho' Blaſphemers regularly think differen.ly in their Mind from " what they ſay, yet they belong to the Judgment of the Inquiſitors, be- " cauſe by blaſpheming they are thought to put on the Perſon of one who " thinks agreeable to what he himſelf had ſpoken; and ſince by the exter- " nal Act they give ſome Token of Infidelity, therefore certain Blaſphe- " mies are ſubject to the Juriſdiction of the Judges of the Faith, that they " may underſtand, whether Blaſphemers do really think as they ſpeak."

Heretical Blaſphemers are puniſhed in this Manner by the Inquiſitors. If the Blaſphemy be very heinous, and the Blaſphemer a mean Perſon, he is made to wear an infamous Mitre, hath his Tongue tied, and pinched with an Iron or Wooden Gag, is carried forth as a publick Spectacle without his Cloak, whipt with Scourges, and baniſhed. But if he be a Perſon of better Condition, or Noble, he is brought forth without the Mitre, thruſt for a

Time

Time into a Monaſtery, and puniſhed with a Fine. In ſmaller Blaſphemies they are dealt with more gently at the Pleaſure of the Inquiſitors, *viz.* the Blaſphemer is condemned to ſtand, during divine Service, upon ſome Holy-day or other, with his Head naked, without his Cloak, and Shoes, his Feet naked, a Cord tied round him, and holding a burning Wax-Taper in his Hands. Sometimes alſo they ſqueeze his Tongue with a Piece of Wood. After divine Service is over his Sentence is read, by which he is enjoined Faſtings and a Fine.

This Puniſhment however doth not take place as to a Clergyman, as *Carena* obſerves. For if a Clergyman was to appear without his Shoes, and with an Halter about his Neck, and thus ſtand at the Gates of the Church before the People, the Clerical Order, and the Miniſtry of the Clergy would ſuffer Diſgrace, and it would become the Wonder and evil Example to the Laity, if the blaſpheming Clergy were thus expoſed. He adds, that he never ſaw this Puniſhment inflicted by this Tribunal on noble Perſons, who, altho' they are not to be more mildly puniſhed for their Nobility, yet may be excuſed from ſuch Puniſhments which do of themſelves render Perſons infamous, and receive other Puniſhments in the room of them. *p.* 2. *t.* 7. § 17. *n.* 88.

And becauſe ſuch who accuſtom themſelves to blaſpheme, though they do it in Paſſion, are vehemently ſuſpected of Hereſy, they are forced to abjure as thus ſuſpected. Thus *Diana* relates, that in the Inquiſition in *Sicily*, two Blaſphemers were made publickly to abjure, as vehemently ſuſpected, *Dec.* 16. 1633. in the Preſence of the Judge himſelf. But in ſmaller Blaſphemies, becauſe they are but lightly ſuſpected, they only abjure as ſuch. *Reſol. mo- Dec. ral. Par.* 4. *tract.* 7. *reſol.* 8.

But in theſe Caſes the Inquiſitors moſtly act according to their own Pleaſure, who have an ample Power of judging according to the Nature and Heinouſneſs of the Crimes. *Gonſalvius* tells us of a certain Perſon who had a Quarrel with a Clergyman of *Ecya*, a City in *Spain*, who accidently ſaid, in the Hearing of others, that he could not believe that God would come down into the Hands of ſo profligate an Adulterer. The Vicar of the Ordinary fined him for the Speech. But the Clergyman not contented with this Revenge, afterwards accuſed him of Blaſphemy at the Tribunal of the Inquiſitors at *Seville*. Nor did the Fine to which he was before condemned by the Ordinary, prevent his being taken up by Command of the Inquiſitors, impriſoned for a whole Year, brought out in Triumph without Cloak or Hat, carrying a Wax-Candle in his Hand, his Tongue gagged with a wooden Gag, thus to puniſh his Blaſphemy; and being forced to abjure as lightly ſuſpected, he was fined a ſecond time. *p.* 195.

CHAP.

## CHAP. XX.

### *Of* DIVINERS, FORTUNE-TELLERS, *and* ASTROLOGERS.

Eymer. *p. 2. qu* 42. *Com.* 67.

FOrtune-Tellers and Diviners are diſtinguiſhed. For there are ſome who act merely by the Art of Divination, ſuch as tell Fortunes, by looking into the Palms of the Hand, and judiciary Aſtrologers. Others who exerciſe Divination by Lots, with the Addition of ſome heretical Word or Fact: As if any one in telling Fortunes about Sweethearts ſhould deny God and the Sacraments of the Church; or ſhould mingle any of the Sacraments of the Church with his Fortune-telling, or thoſe Things which the Divines call Sacramental; as if he ſhould baptize Images, rebaptize a Child, or only anoint him with holy Oil, or incenſe the Head of a Perſon dead, or do any of the like Things to divine future Things, or uſe a Candle and holy Water to diſcover ſtolen Goods. All theſe Things render the Doer ſuſpected; for unleſs he had believed ſuch Sacraments or Sacramentals had ſome Virtue to effect ſuch evil Operations, he would not have uſed them for this Purpoſe. So that the Inquiſitors take diligent Care to interrogate them concerning their Belief, and if they deny the Intention they are tortured; and if they do not confeſs, they may be made to abjure as vehemently ſuſpected. They may alſo be puniſhed with Excommunication, Suſpenſion of Dignities, Whipping, Baniſhment, Impriſonment in Monaſteries, and other Puniſhments, according to the Quality of the Perſons. They may alſo be publickly brought forth wearing the infamous Mitre, or be diſgracefully tied to a Ladder near the Gates of the Church, and be baniſhed from the Dioceſe.

Carena. *p. 2. t.* 12. §. 12.

As to Judiciary Aſtrologers, their Art is generally condemned as ſuperſtitious. But there is one Species of it, which the Doctors pronounce erroneous and heretical, *viz.* that which profeſſes to foretel the Myſteries of our Faith by the Stars. In like manner they are condemned as raſh Aſtrologers, who pretend they are able to foretel by the Stars certain Things concerning the State of the Church, Life or Death, or the Aſſumption of the chief Pontiff. Pope *Urban* VIII. by a Conſtitution, beginning, *Inſcrutabilis*, publiſhed *Ap.* 1. 1631. hath appointed, that Judiciary Aſtrologers, who make Judgments concerning the State of the Chriſtian Republick, or Apoſtolick See, or the Life of the *Roman* Pontiff, or his Kindred, or who, when made, keep them in their own Poſſeſſion, or ſhew them to others, or ſpeak of them by Words, beſides the Puniſhment of Excommunication which they ſhall, *ipſo jure*, incur, ſhall be puniſhed with Death as guilty of High-Treaſon, Confiſcation of Effects, and that if they are of the Clergy, they ſhall be puniſhed with Deprivation of their Benefices and Offices.

We have alſo Inſtances of very grievous Puniſhments inflicted on theſe judiciary Aſtrologers, one of which may be ſeen in *Bzovius*, under the Year 1327. *Bzovius* his Words are, "*Francis Aſculanus* was thrown into Jayl at *Florence*, "and

" and burnt, being by Name convicted of Blaſphemies, Hereſy and judici-
" ary Aſtrology, as alſo of other damned Arts, and was condemned by the
" Inquiſitors of the Faith." After this he ſubjoins a Catalogue of the Crimes objected to him, from which it appears that moſt of them were taken from Judicial Aſtrology.

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## CHAP. XXI.

### *Of* WITCHES.

WITH theſe Fortune-Tellers are properly joined Witches or Hags, which in *Italy* they commonly call *Strigiæ*, from their Reſemblance to the Scritch-Owl, a Night and troubleſome Bird, becauſe they are reported to deal in their Witchcraft principally at Night, and to ſuck the Blood of Infants. Others call them Sorcereſſes, Charmers, and the like. They are ſaid to have been a Sect of People, principally Women, who aroſe in *Italy* in the Year 1400. They gather together in certain Places near Towns and Villages, at particular Times, and eſpecially the Night preceding *Friday*, when the Devil appears to them in a viſible human Shape. When they enter into this Gang, they firſt, and before all Things, do, by the Devil's Command, deny their holy Faith and Baptiſm, the Lord God, and the bleſſed Virgin *Mary*, and after this trample under their Feet on the Ground, a Croſs made by one of the Witches. After this they promiſe Allegiance between the Hands of the Devil, taking him for their Lord, and promiſe Obedience to him in all Things. As a Token of all this, they put their left Hand behind their Back, and touch the Devil's Hand, and offer him ſomewhat as a Mark of their Subjection. From henceforth they are ſaid to believe the Devil to be their true Lord and God; and as often as they go to their nightly Aſſemblies, which they call the Play of good Fellowſhip, they worſhip the Devil appearing in human Shape, and by bowing their Head profoundly down, adore him as their true God. 'Tis reported of them, that they go to this Aſſembly or Play, truly and corporally, when awake and in their perfect Senſes: If the Place be near they go on Foot; if diſtant, they are carried by the Devil through the Air.

Bernard. *Comenſis de Strigiis.*

Many Authors have written largely of theſe Witches or Hags, *James Sprenger*, *Sylveſter de Prierio*, *Bartholomew Spineus*, and others, who warmly contend that they are all corporally carried to theſe Night-Plays or Dances. *Francis Ponzinibius* is the only one amongſt the Papiſts of former Ages, who oppoſes their common Opinion, and affirms that they are not corporally carried, but only deluded by Dreams and Phantaſms.

They who contend for their being carried corporally, uſe theſe Arguments: Becauſe all theſe Perſons, whether Men or Women, confeſs as with one Mouth and

and Tongue, that they every where obſerve uniformly the ſame Manner in every Thing, in the Denial of their Faith, Baptiſm, God, the bleſſed Virgin, trampling on the Croſs, and Promiſe of Obedience, by turning the left Hand behind their Back, and that this appears by the Confeſſions of all of them made before the Inquiſitors, every where throughout *Italy*, and by the written Proceſſes formed againſt them. That this Conformity argues they are not deluded by Dreams, becauſe theſe would vary as to Time and Place, according to the Variety of Cauſes, and the Quality of Perſons.

They add, That theſe Perſons have been ſeen and known by ſeveral Catholick People, as they have been going to, or returning from theſe Aſſemblies. Yea, that ſome who have been carried by the Devil to ſome diſtant Place, have, God ſo ordering it, been let down, and then found themſelves at a great Diſtance from their own Country. And farther, when theſe Witches confeſs before the Inquiſitors, and are converted to the Boſom of the Church, abjuring their Hereſy and Apoſtacy, they never after return to their Play; which could not be, if theſe Things were preſented to them only in Dreams or Imaginations, becauſe Dreams are not in the Power of Men. To which they add as a Concluſion, That many of theſe Perſons have for many Years paſt been delivered over by the Inquiſitors of heretical Pravity to the ſecular Arm, and burnt; which would never have been done, nor ſuffered by the Popes, unleſs theſe Things did really happen, and they were found to be in this Hereſy and Apoſtacy.

And although it may ſometimes happen that theſe Things may appear to them only in Dreams and Fancy, and that they are not really carried to this Play, being found at Home at the ſame time they thought themſelves preſent at it, they think it doth not at all follow from hence, that they are never corporally carried through the Air. And indeed although they never ſhould have been ſo carried, yet becauſe after they have been thus deluded by Dreams, they do not only firmly believe that they did theſe Things when they are awake, and in their Senſes, but do confirm and approve them, and ſtrongly believe that they have denied the Catholick Faith, adored the Devil as God, and do take him for their God, and that by doing ſo, they do not ſin, but do well, and perſevere in all theſe Things before the Inquiſitors, they therefore think them truly Hereticks, Idolaters and Apoſtates; becauſe thoſe who believe theſe Things do depart from the Faith.

I have no Inclination to ſpend any great Time or Labour in examining and refuting theſe Things, and enquiring what Truth there is in ſuch Accounts, and whether ſome Parts of them may not be admitted as true, whilſt others ought to be rejected as fabulous; nor how far credulous, fearful and ſuperſtitious Perſons may be deluded by vain Imaginations and Dreams, and what may be truly performed by Devils. Others have done this abundantly, and the doing it is foreign to my Hiſtory. And therefore I refer my Reader to *Theol. l. 3. §. 3. c. 1. p. 143, &c.* *Simon Epiſcopius*, who hath very learnedly and ſolidly treated of this Matter. I ſhall only ſay in a few Words, that this Contract with the Devil, which is aſcribed to the Witches, is ſo horrible, that one would think it could never enter

enter into the Mind of any Perſon whatſoever. Moſt of the Things they are ſaid to do, deſerve no Belief, becauſe they don't ſeem poſſible to be done. Their Confeſſions are often extorted by the Violence of their Torture, and conceived in ſuch Words, that any conſiderate Perſon may ſee they are formed by the Inquiſitors themſelves, *viz.* to encreaſe the Honour of the bleſſed *Mary*, and of the Sacraments, as though the Devil had a particular Spight to the Worſhip of them. And this is ſo evident and manifeſt, that many of the Papiſts themſelves are perſuaded, that moſt of thoſe are innocent, whom, on this Account, they have ſeen condemned to the Fire. Yea, a certain Popiſh Divine publiſhed an entire Book, entitled, *Cautionis criminalis*, in which he tells us that many innocent Perſons were burnt; and this he affirms, not only from the Reports of others, but ſays that he accompanied ſeveral Women who were lead to Death, of whoſe Innocence no one now makes any doubt.

But to diſmiſs this Argument, I will now ſhew by what Method the Tribunal of the Inquiſition proceeds againſt them.

They prove that it belongs to the Inquiſitors of heretical Pravity to take Cognizance of the Sect of Witches, to proceed againſt them, and puniſh them as other Hereticks, becauſe they are themſelves Hereticks, Idolaters and Apoſtates. 'Tis alſo appointed by many Sanctions of the *Roman* Pontiffs, and particularly by that of *Innocent* VIII. writing to the Inquiſitors of *Germany*. Innocent, *Biſhop, Servant of the Servants of God, for the future Remembrance of the Thing. As we deſire, with our ſtrongeſt Affection, according to the Duty and Care of our Paſtoral Office, that the Catholick Faith may every where encreaſe and flouriſh, eſpecially in our Times, and that all heretical Pravity may be driven away far from the Borders of the Faithful, we willingly declare, and grant a new thoſe Things, by which this our pious Deſire may obtain its wiſhed for Effect; that all Errors being extirpated by the Miniſtry of our Operation, as by the weeding Hook of a careful Workman, a Zeal and Obſervance of the ſame Faith may be more ſtrongly impreſſed on the Hearts of the Faithful. We have indeed lately heard, to our great Grief, that in ſome Parts of* Upper Germany, *as alſo in the Provinces, Cities, Places and Dioceſes of* Mayence, Cologne, Treves, Saltzburg, *and* Bremen, *many Perſons of both Sexes, unmindful of their own Salvation, and deviating from the Catholick Faith, abuſe themſelves with he and ſhe Devils, and by their Incantations, Charms, and Conjurations, and by other horrid Superſtitions, Sorceries, and Exceſſes, Crimes and Offences, do cauſe, and procure to periſh, blaſt, and be deſtroyed, the Conceptions of Women, the young ones of Animals, the Fruits of the Earth, the Grapes of Vineyards, and Fruits of Trees; moreover, Men, Women, Beaſts, Cattle, Sheep, and other Animals of divers Sorts, as alſo Vineyards, Orchards, Meadows, Paſtures, Grain, Corn, and other Pulſe of the Earth, and do affect and torture Men, Women, Beaſts, Cattle, Sheep, with cruel Pains and Torments, inwardly and outwardly, and do hinder the ſaid Men from begetting Children, and the Women from conceiving them; Husbands from rendring due Benevolence to their Wives; and Wives from performing conjugal Actions towards their Husbands; and farther, do with an impious Mouth deny the Faith it ſelf, which*

Pegna, *ad lib. de Strig. Ber. Comenſis.*

*they took on them when they received holy Baptism, and at the Instigation of the Enemy of Mankind, are not afraid to commit and perpetrate many other Enormities, Excesses and Crimes, to the Hazard of their own Souls, the Offence of the divine Majesty, and to the evil Example and Scandal of many.* And a little after, *We therefore, as in Duty bound, being compelled hereto by our Zeal for the Faith, being willing, by seasonable Remedies, to provide against and remove all Impediments, by which the Execution of the Office of the Inquisitors may be in any manner retarded, and that the Infection of heretical Pravity, and other such like Excesses, may not spread their Poison to the Destruction of other Innocents, and that the Provinces, Cities, Dioceses, and Countries, and other the aforesaid Places, in the Parts of* Upper Germany, *may not want the necessary Office of the Inquisition, do by the Tenor of these present, by our Apostolick Authority appoint,* &c. *that it shall be lawful for the said Inquisitors to execute the Office of such Inquisition in these Cases, and that they ought to be admitted to correct, imprison and punish the aforesaid Persons concerning the aforesaid Excesses and Crimes, in all and every Thing, as though such Provinces, Cities, Dioceses, Countries, and Places, Persons, and Excesses, were by Name, and specifically expressed in these Letters.*

These Letters were confirmed as to the greater Part of them, and sent to Master *George de Casali*, heretofore Inquisitor at *Cremona*, by *Julius* II. and were afterwards extended to all the Inquisitors of the Congregation of *Lombardy*, of the Order of Predicants, by these Letters of *Alexander* VI.

Alexander, *Pope, to our beloved Son* Angelus de Verona, *of the Order of Predicants, Doctor of Divinity, Inquisitor of heretical Pravity in the Province of* Lombardy, *and to his Successors. Beloved Son, Health and Apostolical Benediction.*

*Having received Advice that divers Persons of both Sexes, in the Province of* Lombardy, *make use of divers Incantations and diabolical Superstitions, and by their Witchcrafts and numerous Observations perpetrate many horrid Crimes, destroy Men, Cattle and Fields, bring in divers Errors, and cause many Scandals to arise. We have decreed, according to the Ministry of the pastoral Office, committed to us from on high, to check such Wickednesses, and to prevent, as far as with the Help of God we can, the aforesaid Scandals and Errors, for this Reason give in Charge, and command you, as also your Successors, to be appointed throughout* Lombardy, *concerning whom in these and other Things, we have full Confidence in the Lord, that you of your selves, associating however such worthy Persons as you shall think fit to chose, shall diligently make Inquisition against the said Persons of both Sexes, and punish and check them according to Justice. And that you may the better execute this Commission, we grant you full and entire Power against them, all Apostolick Constitutions and Ordinations, as also Grants and ordinary Concessions made possibly for a time, and all other Things whatsoever to the contrary notwithstanding.*

Although it be more safe and decent in Processes against Witches for the Inquisitors to proceed, as in Causes of Hereticks, and to form their Processes with the Assistance of the Diocesans, according to the Disposition of the Law, *Cap.* per hoc. *de hæret. lib.* 6. *Extrav.* ex eo. *de hæret. Clement.* I. *de hæret*, yet nevertheless 'tis manifest from these Constitutions, that they may,

if

if they will, proceed by themſelves, and that what they do or decree when they proceed alone, either in condemning or abſolving, is valid.

Here 'tis enquired, whether Witches, if they have confeſſed the Murthers of Children or Men, or any other Crimes to which the Puniſhment of Death is annexed by the Civil Laws, may be delivered over to the ſecular Court by the Inquiſitors and other Judges, although they repent? Some think, that notwithſtanding their Repentance, they ought not to be perpetually impriſoned as other Hereticks, but put to Death. But the greater Number are of Opinion, that ſuch of them who are willing with a pure Heart to return to the Boſom of the Church, are to be received. Becauſe the Cauſe of Hereſy hath nothing to do with murthering Children, or other Crimes committed by Witches, the Cogniſance of which doth not at all belong to the Inquiſitors. And therefore they believe the Judges of the Faith would do unjuſtly, if they ſhould deny to theſe Wretches, when willing to repent, the Benefit of Mercy and Abſolution.

But if theſe Witches are firſt taken up by the ſecular Judges for the Murther of Infants, or any other ſecular Crime, and when they are interrogated confeſs Hereſy, or any Thing that ſavours of Hereſy, of which the ſecular Judges have no Cogniſance, and, upon account of this Confeſſion, are delivered over to the Inquiſitors, in this Caſe when the Judgment concerning Hereſy is finiſhed, they teach that the Witch muſt be turned back to the ſecular Judge, that he may finiſh the Proceſs begun for other Crimes by the Civil Laws. For in ſuch a Caſe the Perſon is not ſo properly ſaid to be left to the ſecular Court, as to be reſtored to his former Judge, who upon account of the ſecular Crime, hath legal Juriſdiction over ſuch Witch. And this Obſervation is, as they ſay, according to the Conſtitution of *Pius* V. whoſe Words are theſe. *Moreover, let them, without any Delay, tranſmit all Perſons whatſoever impriſoned for any Offences, or by any Means whatſoever accuſed or denounced of any heinous Crimes, before the ſaid Office of the Inquiſition, ſuſpending the Cogniſance of all other inferior Crimes, to the ſaid Cardinals and Priſons of the Inquiſition, and there let them be kept till the full Cogniſance and Diſpatch of the Crime of Hereſy, and afterwards let them be ſent back to the ſaid Officials to expedite the Affair of their other Crimes.*

Yea farther, the Eccleſiaſtical Judges, if they have any legal Evidence, that one of theſe Witches, impriſoned by the ſecular Judge, is an Heretick, or ſuſpected of Hereſy, may compel the ſecular Magiſtrate to deliver her over to them to be judged for the Cauſe of Hereſy, and alſo to exhibit the Proceſſes and any other Writings, in order to their Underſtanding, whether there be any Thing contained in them relating to the Faith, and which may help the Judgment of the Inquiſitors. If the Magiſtrate refuſes it, they may compel him to all this by the Eccleſiaſtical Cenſure, *viz.* Excommunication, Suſpenſion and Interdict. Whereas the ſecular Magiſtrate cannot compel the Judge of the Faith to deliver up to him Criminals of either Sex, who have committed ſecular Offences, in order to puniſh them according to the Civil Laws, becauſe he hath no Juriſdiction over the Eccleſiaſtical Judge. But when the Eccleſiaſtical Judge hath puniſhed Offenders in his Tribunal,

then the ſecular Judge may puniſh the ſame Perſons for Crimes cogniſable in his Court.

They ſay there are two Ways of diſcovering theſe Witches. The firſt is the Confeſſion, and Accuſation of their Companions. For as theſe Women know one another when they are met at their Aſſemblies, they are able to detect each other. But that ſuch Accuſations may gain Credit, 'tis neceſſary that ſeveral of them ſeparately, each making a Confeſſion without the other's Knowledge, do agree in the ſeveral Circumſtances of the Accuſation, *viz.* as to the ſame Perſon, Time and Place, and that they do ſeverally affirm the ſame Thing before the Perſon accuſed, one after the other ſeparately, without the other's knowing of it. And yet at the ſame time they confeſs themſelves, that this ſort of Proof is very uncertain, becauſe it may happen that the Devil may ſometimes aſſume another Perſon's Shape, and appear in theſe Aſſemblies under that Form, in order to render her infamous, though at the ſame time ſhe may be entirely innocent, and far from being concerned in ſuch a Crime. For which reaſon they make uſe of another Way, *viz.* Conjectures and Preſumptions to detect and diſcover them. And of theſe they have ſeveral, *viz.* their bewitching Children, cauſing Diſtempers and other Harms to Men and Women, to Cattle, and the Fruits of the Earth, the Grapes of Vineyards, and the Fruits of Trees. When therefore skilful Phyſicians by any Conjectures or Circumſtances judge, that a Damage of this ſort doth not happen from any natural Defect, nor from any natural intrinſick Cauſe, but from ſomething external, and yet not from any venemous Infection; or when they ſee any Diſeaſe to be incurable, ſo that the ſick Perſon cannot be relieved by any Medicines or Remedies, but rather grows every Day worſe and worſe, this they think is a ſufficient Proof that 'tis the Effect of Witchcraft. In like manner, when any Men or Women, who are ignorant of the Art of Phyſick, prevent the Effects of ſuch Witchcrafts, and heal Diſeaſes, they ſay 'tis a Sign that theſe Things are done by the Co-operation of the Devil.

To this they add another Sign, which is greatly uncertain. When, ſay they, any Perſon, whether in a Quarrel or not, threatens another, and ſays, Becauſe you have done to me ſo and ſo, I will do ſomething to you that ſhall make you know whether you have done well by me or not; or I will make you repent it; or you ſhall ſee the ill Effects of it, or any Thing to the like Purpoſe. If the Thing comes to paſs, 'tis a Sign that ſuch an Effect is produced by the Aſſiſtance of the Devil, eſpecially if it can't be known how ſuch an Effect could otherwiſe follow. And therefore when ſuch Threatnings are attended with their Effects, 'tis a very great Preſumption and Reaſon to conclude, that the Perſon who utters ſuch Threatnings is a Witch, and dedicated to the Devil by a Denial of the Faith. This is a ſufficient Proof to proceed to Torture.

But certainly if ſuch Signs be ſufficient to put Perſons to the Torture, what Innocence can be ſafe? 'Tis eaſy to extort a Confeſſion from ſuch who are moſt innocent, by the Cruelty of theſe Tortures, with which they puniſh without End or Meaſure, thoſe whom they ſuſpect, as the very Plagues of human

human Nature, even of Crimes they have never thought of, and of which they have never heard ſo much as the Deſcription. And therefore 'tis not to be wondered at, that the Inquiſitors, within the Space of 150 Years, ſhould have burnt 30000 Witches, as *Ludovicus a Paramo* ſays they have; adding: *De Orig. Inq. l. 2. t. 3. c. 4. p. 296.*

" The Inquiſitors have moſt ſeverely proſecuted theſe moſt outragious Furies,
" who have thrown off all Humanity, eſpecially in the Kingdom of *Sicily*,
" where, when I my ſelf, a few Years paſt, executed the Office of Inquiſi-
" tor, many of this kind of Apoſtate Witches were diſcovered and pu-
" niſhed."

But as by this Method of Proceeding many notorious and manifeſt Acts of Injuſtice were commited, a certain Inſtruction was put into the Hands of the Inquiſitors in *Italy*, which *Carena* hath publiſhed, in which 'tis affirmed:

" That it hath for a long time been obſerved in the Congregation of the
" Univerſal Inquiſition at *Rome*, that ſcarce any Proceſs hath been ever
" found to be rightly and juridically formed; that it hath been generally
" found neceſſary to cenſure moſt of the Judges, and oftentimes to puniſh
" them for illegal Vexations, Inquiſitions, Impriſonments, as alſo for ſeveral
" evil and impertinent Methods uſed in forming Proceſſes, interrogating
" Criminals, inflicting exceſſive Tortures; inſomuch that ſometimes unjuſt
" and unrighteous Sentences have been pronounced, even of Death, or de-
" livering Perſons over to the ſecular Arm. And it hath been found in
" Fact, that many Judges have been too eaſy and ready to believe a Wo-
" man to be a Witch for a light Proof, or rather none at all, upon which
" Account they have omitted nothing, no not unlawful Methods, to extort
" ſuch a Confeſſion from theſe Women, notwithſtanding there have been ſo
" many Improbabilities, Differences and Contrarieties, that one would think
" there could be little or no Debate about the Matter."

This *Carena* confirms by ſeveral Inſtances. In the City of *Logronno* in *Spain*, many Perſons were condemned for Witchcraft, and yet afterwards 'twas diſcovered that there were many Deceits in the Affair of their Condemnation, upon which Account the Effects of the condemned Perſons were not confiſcated, nor their Sentences fixed upon the Churches, but they were reconciled, and moreover declared capable of any Office of the Inquiſition. He gives another Inſtance of four Women, accuſed before the Ordinary by ſome others who had been condemned to Death, and hanged, who appealed to the Royal Council, to whom the Preſumptions againſt them appeared ſo very ſlight, that upon finding Sureties they were diſmiſſed, and never called into Queſtion afterwards. He reports in the ſame Place the Words of *Ferrerius*, who calls thoſe Judges, *Aſſaſſines, Judges that have no Fear of God, and leſs Love for Truth.* For this Reaſon certain Rules are preſcribed to the Inquiſitors, that they may proceed in this Affair with more Caution.

And firſt, before they begin the Proceſs, there muſt be ſome Certainty as to the Reality of the Crime, whether the Offence be of that ſort which leaves the proper Traces behind it. For it hath been obſerved, that ſome Judges have ordered certain Women to be puniſhed with Death, for confeſſing

feſſing a Crime which had never been committed. Thus *Ferrerius* reports, that a Woman confeſſed, that in the Night ſhe took a certain Infant from the Breaſts of its Mother, and carried it into the Aſſembly of the Witches, where it was killed by her and her Companions. But upon examining the Mother of the Infant, ſhe declared that no ſuch Accident had ever happened to it. Now the Reality of the Offence is proved by the Judgment of skilful Phyſicians, if they do clearly determine that the Diſeaſe is not natural, but poſſibly and probably a Witchcraft, and there be legal Proofs that the Witchcraft is committed by the Woman. After this the Inquiſitor may proceed to Impriſonment, firſt taking Advice of the Counſellors. After Impriſonment he ſearches her Houſe with a Notary, to ſee what Things they can find in the Coffers and Beds, both for the Aſſiſtance of the Perſon inquiſited, as whether there be Crowns *, Divine Services, Books of Devotion and the like; and for the Aſſiſtance alſo of the Fiſcal; as whether there be any Images of Wax run through with Needles, Powders, Ointments, Papers with Croſſes, Books containing Witchcrafts, Bones under Ground, Poyſons, Bones of dead Perſons, and all extraordinary Things found under the Threſhold, and in the Beds. This Search muſt be made by the Miniſters of the holy Office, in the Preſence of the Notary before the Inquiſitor. None of the Family of the Perſon accuſed of Witchcraft muſt be preſent. And here they adviſe that all unuſual Things found in Beds are not to be looked on as a Token of Witchcraft; for ſome ſuch Things may naturally happen; and therefore ſuch Things can cauſe but a very light Suſpicion, unleſs what they find in the ſaid Places are in themſelves, and, according to the common Uſe of Witches, fit to perform magical Operations. As for Inſtance, if half of an human Skull is found in the Bed or on the Pillow of the Witch, and another half exactly anſwering to the former, is found in her Cheſt, a very conſiderable Suſpicion would from hence ariſe againſt ſuch Perſon, as the prudent Judge ſhall determine, and certainly greater than if no ſuch half Skull had been found at all. Theſe and other Things, too tedious to mention, the Inquiſitor is commanded to take prudent Notice of, leaſt he ſhould proceed againſt any Perſon as a Witch, raſhly, and without juſt Cauſe.

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## CHAP. XXII.

### *Of* JEWS, *and ſuch as return to* Jewiſh *Rites.*

THE Nation of the *Jews*, after the Deſtruction of the City and Temple of *Jeruſalem*, were brought into miſerable Bondage and Captivity, and diſperſed throughout the whole World. But being impatient of their

* Conſecrated Bread made like a Crown, or in a round Form.

Miſeries,

Miſeries, they have often taken up Arms, and endeavoured to aſſert their Liberties. But having been ſubdued by moſt grievous Slaughters, they have at length laid down their Fierceneſs, and are forced to bear the Yoke. The Chriſtians, partly through Fear of the Rage of the *Jews*, and partly through an intemperate Zeal for Chriſtianity, have endeavoured either wholly to deſtroy by various Miſeries this diſperſed People, or to tire them out by the Grievouſneſs and Length of their Miſeries, and thus to compel them to profeſs the Chriſtian Faith. Upon this account various Edicts have at different Times proceeded againſt the *Jews*. Some have proſcribed them in the Countries where they have lived, others have deprived them of their Liberties, and reduced them to Slavery; others have ſtripped them of thoſe Advantages and Privileges which their other Subjects have enjoyed, that by theſe Means they might at length be wholly extinguiſhed, or wearied out by the Miſeries they endured for their *Judaiſm*, renounce it, and embrace the Chriſtian Religion. Very ſevere Edicts have been made againſt them, eſpecially in *Spain*, where a very large Number of them dwelt, and were thought to endanger the Safety of the Kingdom.

In the Sixth Council of *Toledo* this Decree was publiſhed againſt the *Jews*. Simanc. *tit.* 35. §. 9. *We the holy Council, with the Conſent of the moſt Chriſtian Prince, and his Nobles, and moſt Illuſtrious Perſons, publiſh this Sentence, pleaſing to God, that whoſoever ſhall enjoy the Kingdom for Time to come, ſhall not aſcend the Royal Throne, before he hath promiſed upon the holy Sacraments, that he will ſuffer no Perſons but Catholicks to dwell in his Kingdom. And if any one, after his Acceſſion to the Kingdom, ſhall raſhly violate this Promiſe, let him be* Anathema Maranatha *before the eternal God, and become Fewel for the everlaſting Fire, and alſo all ſuch who agree with him*, Can. 3. *Baronius*, under the Year 638, ſays this was principally decreed out of Hatred to the *Jews*, and beſtows great Praiſes on it, and from hence concludes, *'Tis not without Reaſon that the Kings of* Spain *have had the Title of Catholick beſtowed on them, being worthy of ſo high a Title, becauſe they not only ſwear that they will be Catholick themſelves, but that they will not ſuffer any one that is not a Catholick to dwell in their large Dominions.* But notwithſtanding this Decree, a great many *Jews* remained in *Spain*, and ſoon encreaſed to ſuch a Number, that they began to appear formidable to the Kings, and they were accuſed, whether right or wrong, of a Deſign to raiſe a Rebellion. Upon which account another Edict was made againſt them in the Seventeenth Council of *Toledo*, Can. 8. *Since the Perfidiouſneſs of the* Jews *hath not only defiled the Coat of ſacred Chriſtian Baptiſm which they have received, but alſo attempted to conſpire againſt the King and Kingdom; let them be deprived of all their Effects, and thoſe perfidious Wretches themſelves, their Wives and Children, and the reſt of their Poſterity, throughout all the Provinces of* Spain, *be ſubject to perpetual Slavery, and remain every where diſperſed; and let ſuch who have made Slaves of them, by no Means permit them to celebrate their Ceremonies.* Yet ſtill the Poſterity of the *Jews* greatly multiplied in *Spain*.

In the mean while the *Romaniſts* contend that the *Jews* ought not to be compelled by Force to embrace the Chriſtian Religion againſt their Will, becauſe Religion

Religion ought to be voluntary, yea ſometimes they have been protected by the Papal Authority againſt the Injuries of ſome intemperately zealous Chriſtians.

Bzovius, *A.* 1200. §. 13. Thus Pope *Innocent* III. publiſhed a Conſtitution for not oppreſſing the *Jews*, in which there are theſe Things. *We ordain that no Chriſtian ſhall by Violence compel them (the* Jews*) againſt their Inclination and Will to come to Baptiſm. But if any of them ſhall, of their own accord, come over to the Chriſtians upon account of the Faith, after he ſhall have diſcovered his Intention, let him become a Chriſtian without any Reproach. Such a one cannot be ſuppoſed to have the true Faith of Chriſtianity, who is known to come to Chriſtian Baptiſm not voluntarily but unwillingly. Farther, let no Chriſtian without the Order of the ſecular Power, wickedly hurt their Perſons, or preſume by Violence to take away their Effects, or to change the good Cuſtoms which they have hitherto uſed in the Countries where they dwell. Moreover, let no one diſturb them with Sticks or Stones in the Celebration of their Feſtivals; nor let any one ſtrive to exact or extort from them undue Services, nor any but thoſe which they have been accuſtomed to yield in Times paſt. And that we may prevent the Wickedneſs and Covetouſneſs of evil Men, we decree that no one ſhall dare to mangle or leſſen the Burial-place of the* Jews*, or with a View to get Money, to dig up their Bodies when buried. But if any one, which God forbid, knowing the Tenor of this Decree, ſhall attempt to contradict it, and ſhall not make Amends for his Preſumption by condign Satisfaction, his Crime ſhall be avenged by the Puniſhment of Excommunication. It is our Pleaſure however that ſuch only ſhall enjoy the Defence of this our Protection, who ſhall not preſume to attempt any Thing to the Subverſion of the Chriſtian Faith.*

The Papiſts alſo farther contend, that although they oblige the *Jews* in *Spain* and *Portugal* to depart thence, unleſs they embrace the Chriſtian Religion, yet they do by no Means force them to become Chriſtians; and therefore *Oſorius* and *Mariana* blame King *Emanuel*, who kept the younger Children of the *Jews* againſt their Parents Will, and compelled the *Jews* by a ſevere Bondage to receive Baptiſm; and they ſay that this Action is neither §. 27. agreeable to Law or Religion. The Words of *Bzovius*, by which he blames this Action, under the Year 1497. are not to be omitted here. *What is this? Wouldſt thou force rebellious Minds, not bound by any Obligations of Religion, to believe thoſe Things, which they do ſo vehemently deſpiſe and reject? What, do you aſſume this to your ſelf, to reſtain the Liberty of the Will, and throw Chains upon ſuch unbridled Minds? This is an Impoſſibility, nor doth the moſt holy Deity of Chriſt approve it. What he deſires is a voluntary Sacrifice, and not ſuch a one as is forced from Men by an unlawful Violence; nor doth he command that the Mind ſhould be compelled, but that the Will ſhould be allured and invited to the Study of true Religion. Beſides, how can any one arrogate that to himſelf, which the holy Spirit only can effect in their Minds, who do not go on to oppoſe his Goodneſs to the End of Life? For 'tis he only who illuminates their Minds, and allures and invites them, and brings thoſe who do not reject ſo great a Gift with an obſtinate and ungrateful Heart, to confeſs and have Communion with Chriſt. Finally, who doth not ſee how unworthy 'tis to commit to Men of different Perſuaſions in Religion ſo many Myſteries, ſo*

*many*

*many ſacred Things, ſo great an Affair of divine Matters, and thus inconſiderately to afford an Occaſion of Wickedneſs to thoſe who deſpiſe the Diſcipline of Chriſt, and by this Means moſt unworthily to proſtitute Religion it ſelf under a Pretence of Religion?* Can any one believe that theſe People ſpeak ſeriouſly, who by ſo many Methods cruelly diſtreſs the *Jews*, that they may force them, thus broken by Miſeries, of which they ſee no End, to embrace the Chriſtian Religion? For 'tis owing to this that ſo many amongſt the new Converts are found to be *Jews* in their Hearts. Hence 'tis that they themſelves always ſuſpect the new Chriſtians, *viz.* ſuch who are converted from the *Jews* and *Saracens*, and deſire that their Poſterity may be always ſeparated from the Poſterity of the old Chriſtians.

Sometimes alſo they have openly perſecuted the *Jews*, and compelled them to become Chriſtians. *Sethus Calviſius* relates from *Cedrenus*, under the Year 722. that *Leo* the Emperor forced the *Jews* to embrace Chriſtianity; but that they afterwards either renounced their Baptiſm, or ſhut themſelves up in their Houſes, and burnt themſelves with all their Families.

But what ſhall we ſay to theſe Perſons, who, though they teach that the *Jews* are not to be compelled to the Faith, yet plead for forcing, and actually force thoſe who in their Judgment err concerning ſome Principles of Religion, whom they call by the infamous Name of Hereticks, to renounce their Errors, or rather the very Truth it ſelf, by all manner of Methods, and every kind of Cruelties. *Conrad Brunus* reſolves this Queſtion, reciting a Decree of one of the Councils of *Toledo* concerning the *Jews*. *As to the* Jews, *the holy Synod commands, that no one of them ſhall be henceforwards compelled: For the Lord ſheweth Mercy on whom he will have Mercy, and whom he will he hardens; for ſuch are not to be ſaved againſt their Conſent, but willingly, that the Form of Juſtice may be compleat. For as every one obeying the Serpent by his own free Will periſhes, ſo every one who is called by the Grace of God, believing thro' the Converſion of his own Mind, is ſaved. So that Perſons are to be perſuaded, that by their own free Will and Power they may be converted, and are not rather to be compelled.* " Since this is determined concerning the *Jews*, why is it, ſays *Bru-*
" *nus*, that we compel Hereticks to return to the Unity of the Catholick
" Church, and do not rather leave them to their Will? There is a Reaſon
" to force the one, and not the others, as the ſame Council of *Toledo* de-
" clares; becauſe Hereticks have been once Partakers of the Divine Sacra-
" ments, and received the Grace of Baptiſm, and been anointed with Oil,
" and partaken of the Lord's Body; and therefore they are to be compelled
" to hold the Faith they once received, that the Name of the Lord may
" not be blaſphemed, and the Faith which they have received become vile
" and contemptible."

*de Hæret. & Schiſmat. l. 3. c. 3. §. 18. Cap. de Judæis 45. Diſt.*

*Bellarmine* explains this Matter more fully in Anſwer to the Objection, that Faith is free. He diſtinguiſhes Freedom, and ſays, *'tis capable of a double Senſe. The firſt is a Freedom from Obligation, as when we ſay 'tis a Matter of Freedom to vow Chaſtity, to enter into Religion, but 'tis not Matter of Freedom to break one's Vow, or to go out of Religion. And in this Senſe Faith is a Matter of Free-*

*de Laicis, c. 22.*

*dom as to thoſe who have never received it, as to any Obligation of human Law, though not as to the Divine, and therefore ſuch Men ought not to be compelled. God will puniſh them. But as to ſuch who have profeſſed Faith in Baptiſm, Faith is not free from Obligation either of the divine or human Law, and therefore they compel Men to preſerve it. Again, Liberty is ſo taken as to diſtinguiſh it from Neceſſity, and in this Senſe 'tis free whether a Man will believe or no,* &c. But that I may by the way refute this Foundation of Popiſh Perſecution, I would obſerve that neither *Bellarmine* nor any of the Popiſh Crew will ever be able to ſhew, that by receiving Baptiſm, there is any Obligation whatſoever to human Laws contracted. The Vow is made to God, and the Perſon baptized obliges himſelf by Baptiſm to God only, and not to any Man, and therefore he receives Baptiſm in the Name of the Father, Son and Holy Ghoſt; and as our Saviour commands this Form of Baptiſm to be obſerved, he evidently ſhews that a Perſon hereby becomes devoted only to God; nor doth the baptized Perſon make any, either expreſs or tacit Promiſe, by which he lays himſelf under Obligation to any Man. He profeſſes himſelf a Diſciple of Jeſus Chriſt, binds himſelf to obſerve his Commands, and acquires a Right to thoſe ſpiritual Bleſſings which God ſeals his Title to by Baptiſm. So that here is nothing to be found by which a Perſon binds himſelf to any Man, or renders himſelf obnoxious to human Puniſhment if he departs from the Faith, and from an holy Life. All Things in this Tranſaction are divine and ſpiritual. 'Tis from God he expects the Remiſſion of Sins and eternal Life, if he obſerves thoſe Things to which he binds himſelf in Baptiſm. If he breaks his baptiſmal Vow by Apoſtacy and Profaneneſs of Life, he will experience the divine Puniſhment. So that herein there is no Change made as to any human Obligation; nor is he by Baptiſm more bound to any Man whatſoever than he was before. It may be ſaid perhaps, that by Baptiſm he is made a Member of the Church. He is ſo; but doth not on this Account come under any human Obligation, and cannot therefore be obnoxious to the Decrees of any Man, but to thoſe only of God; which if he departs from, he immediately ceaſes to be a Member of the Church, and therefore the Church may declare that he is no longer a Member of her Body, and that therefore he hath no Hopes remaining of the Remiſſion of Sins, and eternal Life. And the Church may pronounce juſt the ſame of thoſe who have never been baptized, nor profeſſed the Chriſtian Faith. And therefore I conclude, that if any one falls from the Faith into an Hereſy truly ſuch, he doth not depart from any Obligation he is under to the Church, or to any Man, but from that which he is under to God, whoſe Word only he is bound to obey as the ſole Rule of his Faith; and that therefore he is to be puniſhed by God only with a ſpiritual and eternal Puniſhment, and not by any Man with a corporal Puniſhment. This by the way.

To return therefore to our Purpoſe. The Inquiſition was not introduced to compel the *Jews* to the Chriſtian Religion; becauſe, ſay they, as they are not baptized, and have not profeſſed the Faith of Chriſt, they cannot be ſaid to be Hereticks or Apoſtates, and therefore are not ſubject to the Juriſdiction

riſdiction of the Inquiſitors. For the Church doth not judge of thoſe that are without, and the Juriſdiction of the Inquiſitors is only granted them againſt heretical Pravity and Apoſtacy. The Inquiſition indeed in *Spain* is introduced againſt thoſe, who being converted from the *Jews* or *Mahometans*, to the Chriſtian Religion, return again to *Judaiſm* or *Mahometaniſm*, and give ſuch Marks of that Apoſtacy as are capable to convict them. Such a one, as well as a Chriſtian, that goes over to the *Jewiſh* Rites, may be puniſhed by the Inquiſitors as any other Heretick or Apoſtate. And in order to prove this Crime, they admit the Teſtimony of *Jews*; and when it is legally proved, they are by the royal Laws of *Spain* delivered over, as Relapſed and Impenitent, to the Fire.

Beſides this there are other Caſes in which the *Jews* are ſubject to the Inquiſition, concerning which *Zanchinus de hæreticis*, and *Campegius* diſcourſe, and which I ſhall here mention. *Addit. ad* Zanchin. c. 36.

" Becauſe the Church doth not judge of
" thoſe who are without, ſome, without making any Difference, believe,
" that the Inquiſitors can't proceed againſt the *Jews*, nor puniſh them. O-
" thers indeed grant, that the *Jews* are not againſt their Wills to be com-
" pelled to receive the Chriſtian Faith, or Baptiſm, but yet that in certain
" Caſes they are ſubject to the Inquiſitors. And to prove it they uſe this Di-
" ſtinction. A *Jew* either offends by Contempt of the Orthodox Faith, or
" hindring the Office of the Inquiſition. Or elſe as to their own Faith, or
" otherwiſe not relating to the Premiſſes. In the two latter Caſes this is
" nothing to the Inquiſitor. But if he offends as to the Contempt of the
" Faith, by reproaching the Churches or Altars, or even the ſacred Orna-
" ments of the Church, and the like, or hinders the Inquiſitor in the Di-
" ſpatch of his Office, the Inquiſitor may proceed againſt him, becauſe the
" Nature of his Offence is ſuch as ſubjects it to the Court of the Church.
" The Penalties by which ſuch a *Jew* may be puniſhed, are various. Chri-
" ſtians may be forbid to have any thing to do with him, and this is a
" moſt grievous Puniſhment to live amongſt Men, and to be abſolutely de-
" prived of their Aſſiſtance. He may alſo be fined, and receive other cor-
" poral Puniſhment, *viz.* Impriſonment or Whipping."

There are yet other Caſes, in which the *Jews* are ſubject to the Inquiſitor, if they relapſe into *Judaiſm*, or if any one ſimply forſakes Chriſtianity for *Judaiſm*, or if a *Jew* perſuades a Chriſtian to the *Jewiſh* Rites. All which are mentioned in the Extravagant of *Gregory* X. to the Inquiſitors of the Predicant and Minor Orders, in the Year 1271. *With Grief of Heart we have heard and relate, that not only certain Perſons converted from the Error of* Jewiſh *Darkneſs to the Light of the Chriſtian Faith, are known to return to their former Wickedneſs; but that many Chriſtians denying the Truth of the Catholick Faith, have damnably gone over to the* Jewiſh *Rites. This is ſo much the more reprobate, as hereby the moſt holy Name of Chriſt is by a kind of friendly Enmity more ſecurely blaſphemed. Since therefore it becomes us to obviate by fit and ſpeedy Remedies this damnable Plague, by theſe Apoſtolick Writings, we command all of you, that within the Times appointed you by Authority of the Apoſtolick See, to make In-* Campeg. *in* Zanch. c. 36.

*quiſition againſt Hereticks, you do diligently and carefully enquire out the Truth concerning the Premiſſes, as well with reſpect to Chriſtians as to* Jews, *and that you endeavour to proceed againſt thoſe, whom you ſhall find hitherto to have committed theſe Things, or who ſhall commit them for the future, as againſt Hereticks, the Favourers alſo, Receivers, and Defenders of Hereticks. And as to thoſe* Jews, *who have perſuaded Chriſtians of either Sex to embrace their execrable Rites, and whom you ſhall find hereafter endeavouring to perſuade them, let them undergo the deſerved Puniſhment. Compel all Contradictors by the Eccleſiaſtical Cenſure, without allowing them any Appeal; calling, if there be Need, to your Aſſiſtance in this Affair, the ſecular Arm.*

There are alſo extant the like Records, in the Acts of the Inquiſition at *Ferrara*, written in Parchment, which *Campegius* gives us, two of which I ſhall here only tranſcribe. The one is a Letter of *Latinus D'Urſinis*, Cardinal Legate of *Romagliona* and *Tuſcany*, to the Inquiſitor of *Ferrara*, *A. D.* 1280. and ſecond of the Pontificate of *Nicholas* III. *Our Beloved in Chriſt*, Boniface *of* Ferrara, *heretofore a* Jew, *but now, through the Grace of Chriſt, converted to the Catholick Faith, hath declared to us, that the* Jews *dwelling at* Ferrara, *being ſtirred up againſt him by a malignant Spirit, endeavour to oppreſs him with grievous Perſecutions, and invent wicked Things to his Deſtruction; on which Account he cannot dwell in the aforeſaid City without Fear of Danger. Wherefore he hath humbly beſought us, that we would take Care to provide him with proper Aſſiſtance in this Difficulty. Since therefore 'tis very unworthy, that ſuch who forſaking the Error of* Jewiſh *Blindneſs, have returned to the Light of the Chriſtian Faith, ſhould ſuffer Perſecution and Injuries from thoſe who remain in Darkneſs it ſelf, we command your Diſcretion, by the Authority we are inveſted with, that you receive under your Protection the ſaid* Boniface, *and all others, who are converted to the Catholick Faith, in the City and Dioceſe of* Ferrara, *or who ſhall be hereafter converted; and that you take Care to protect and defend them from the aforeſaid* Jews, *by reſtraining the ſaid* Jews *from their Inſolencies and Blaſphemies againſt the Orthodox Faith, as to you ſhall ſeem convenient. Calling in, if Need be, in this Affair, the Aſſiſtance of the ſecular Arm.*

The other is the Anſwer of ſeveral Divines of *Padua*, *Bologna*, and *Ferrara*, to eight Articles propoſed by the ſaid Inquiſitor of *Ferrara*, which, as 'tis abridged by *Campegius*, I ſhall here faithfully tranſcribe.

Firſt, 'tis asked, *Whether a* Jew *baptized, and converted to the Chriſtian Faith, becomes ſubject to the Office of the Inquiſitor if he apoſtatiſes from the Truth of the ſaid Faith to* Judaiſm, *and denies the Chriſtian Faith which he hath received, and may by him be compelled and condemned as other Hereticks, if he contemptuouſly refuſes to hold the Faith he hath received.*

*The Anſwer of the wiſe Men of* Padua, A. D. 1281. *to this Queſtion is, That ſuch a one is ſubject to the Office of the Inquiſition, and that he may be proceeded againſt as well as any other Heretick. Thoſe of* Ferrara *ſaid the ſame,* viz. *that the Inquiſitor can, and ought to proceed againſt baptized* Jews, *who have afterwards returned to* Judaiſm.

*Secondly,*

*Secondly, Whether the Inquiſitor may proceed againſt thoſe by whoſe Help, Will, Counſel, or Aſſent, ſuch or ſuch a Chriſtian apoſtatiſes, and denies the Faith of Chriſt, which he hath once received; and alſo againſt his Favourers, Receivers, and Defenders, whether they are* Jews, *or of any other Condition and State.*

*Thoſe of* Padua *replied, That the Inquiſitor may and ought to proceed againſt ſuch, as againſt Favourers, Receivers, and Defenders of Hereticks. Becauſe, although* Jews *are tolerated by the Church in their Rites, yet by the Nature of their Crime, which they commit againſt the Church, they are to be reſtrained by Eccleſiaſtical Severity, and becauſe he ought to forfeit his Privilege who abuſes the Power intruſted with him. Thoſe of* Bologna *ſay the ſame,* viz. *That ſuch are to be ſeverely puniſhed. Yet they adviſe that ſuch ſhould not be proceeded againſt with the laſt Extremity, not to the ſhedding their Blood, nor to their being delivered over, or left to the ſecular Arm. But that they may and ought to be puniſhed with a Fine, Baniſhment, Impriſonment, and alſo with an indirect Excommunication, and the like, as the Nature of their Offences require. Again, ſuch ought to be proceeded againſt, as Favourers, Receivers and Defenders of Heretieks, who give Counſel, Aſſiſtance and Favour to ſuch an Apoſtate, by keeping him in their Houſe, feeding him, giving him Money, and accompanying him out of the City, ſo that what is done may not come to the Knowledge of Chriſtians, or by admitting him to Judaiſe in a Synagogue, and the like. But theſe are to be puniſhed leſs than the former, becauſe theſe ſeem to be Favourers only; but the former, properly ſpeaking, Makers of Hereticks. From theſe alſo the Truth may be forced by moderate Torture, if they will not themſelves confeſs it, ſince there are Witneſſes or violent Suſpicions againſt them, that they have committed theſe or the like Things to the Prejudice of the Chriſtian Faith. The Doctors of* Ferrara *ſubſcribed to this Deciſion.*

*Thirdly, Whether an Inquiſitor, having violent Preſumption againſt ſuch Perſons, that they do not ſpeak the Truth, whilſt he is making Inquiſition againſt them in the aforeſaid and other like Crimes, may force it from them by Torture, ſo as not to ſhed their Blood, by the ſecular Executor or Judge, and proceed againſt them to Canonical Puniſhments, if they are convicted, or confeſs. They of* Padua *anſwered in the Affirmative, to which thoſe of* Bologna *agreed. The Truth, ſay they, may be forced from them, if they will not confeſs it, by Puniſhments not extending to the ſhedding their Blood, by the ſecular Judge, at the Command of the Inquiſitor, when there are legal Witneſſes, or violent Preſumptions that they have committed the aforeſaid or like Things. Campegius* adds here, Obſerve, I beſeech you, the Scruple of the Antients, as to the Puniſhments of Torture, becauſe they would not have them uſed by the Eccleſiaſtical Judge, but by the ſecular one at the Command of the Eccleſiaſtical. But now this Scruple is entirely removed by *Cle. Multorum.* de hæret. §. *Duro tamen. Thoſe of* Ferrara *gave the ſame Advice,* viz. *that the Inquiſitors may and ought to proceed againſt ſuch, by whoſe Help, Counſel, or Aſſent, any one hath apoſtatiſed.*

*Thoſe of* Padua *moreover ſay, that the Truth may alſo be extorted by the ſame Puniſhments, if they deny that which is proved by ſeveral Witneſſes, although the Witneſſes who prove it ſay, that the aforeſaid Crimes were committed by the Help, Counſel and Aſſiſtance of the* Jews *of ſuch a City, and yet doth not ſeverally expreſs*

*their*

*their Names. And moreover, by such sort of Proofs they may be proceeded against without the Confessions of any others of them.*

*Fourthly, Concerning the Synagogue 'tis enquired, What must be done with such a one, wherein, by the Help, Will and Counsel of the* Jews *who dwell in the Country, any Christians have been washed by the* Jews, *to the Prejudice of holy Baptism, and have denied the Faith by their Persuasions. Those of* Padua *answer, that it must needs be entirely destroyed, or deprived of the Privileges of Christians, which Sentence is approved by those of* Bologna *and* Ferrara.

*As to a Person who offends in the said Cases within the Bounds of the Inquisition, where he lives, and hath an House within the said Bounds, in which he has been used to dwell with his Family; those of* Padua *say, 'tis sufficient, that an Edict of Citation be sent to the said House, if the Person hath transported himself to foreign and unknown Parts; and if he doth not appear within the proper Terms assigned him, he must be proceeded against, and his Effects found therein be disposed of according to Law.*

*In another Instance the* Paduans *answer thus; That an Infant Child of a baptized* Jew, *left with its Mother, who continues in* Jewish *Blindness, must, whilst the Father is absent in remote and unknown Parts, be taken from her in Favour of the Faith, by the Church or Ordinary of the Place, or the Christian Prince, to whose Government 'tis subject, and brought up amongst faithful and unsuspected People, and baptized, unless the Child it self appears to be against it.*

*As to another Instance, of a certain Person, against whom it was proved by several legal Witnesses, that being in a* Jewish *Synagogue, and about to read the Law solemnly before other* Jews, *according to their Manner, it was objected to him by one present, that he was not worthy to read the Law, for that in such a Country he had been baptized; and he himself owned and confessed that he had been there baptized, but that he was returned to* Judaism, *and had performed the Penance which the* Jews *had appointed him for his Sin in being baptized, and that he would live and die from henceforwards as a* Jew; *those of* Padua *and* Bologna *say, that the Truth concerning these Things may be extorted from him by Punishments not reaching to the Effusion of Blood, by the secular Judge, at the Command of the Inquisitors.*

*As to two other Persons,* viz. *a Man and a Woman, who declare themselves, and act publickly as* Jews, *and yet it may be legally proved against them by Witnesses, that the Parents of each were Christians, and they themselves were baptized,* viz. *in this Manner. For the Father of this Man, who declares himself, and acts as a* Jew, *was himself first a* Jew, *but afterwards baptized, and so made a Christian, and married a Christian Woman for his Wife, by whom he had this Son, and caused him to be baptized, so that he lived many Years as a Christian. A long while after his Father returned to* Judaism, *and caused this Son, of whom we speak, to be circumcised, so that he afterwards always lived as a* Jew, *and what is more, caused his Mother, who was truly a Christian, to* Judaise, *who was at length buried in the Burial Place of the* Jews. *And as to the Woman who publickly declares her self, and acts as a* Jewess, *she also is proved to have been first a Christian after the aforesaid Manner. For her Mother was first known to be a* Jewess, *but was afterwards made a Christian, and married a Christian Man, upon whose Death she returned*

*turned to* Judaiſm, *and married a* Jew *for her Husband. Of both theſe they of* Bologna *ſay, that they muſt proceed againſt them as againſt Hereticks, and that the Truth muſt be extorted from them by Puniſhments, if they will not confeſs it. But if they will neither thus confeſs the Truth, nor return to the Faith which they firſt received in Baptiſm, they may, after Confiſcation of their Effects, either be ſhut up in perpetual Impriſonment, or left to the ſecular Arm.*

*In Teſtimony of which Thing the Lords Adviſers of* Padua, Bologna *and* Ferrara, *have ſigned their diſtinct Opinions with their own proper Seals.*

*Simancas* alſo adds theſe Caſes, of which ſome do not much differ from the Caſes mentioned in the above Writing of *Ferrara*. *Tit.* 35.

" If a *Jew*, *Mahometan*, or any other Perſon receives, defends or favours " Hereticks, or hinders the Inquiſitors, or obſtructs their Office, or ſhould " keep in his Poſſeſſion the Books of Hereticks, he may be puniſhed by the " Inquiſitors. Alſo by one of the Extravagant Conſtitutions of *Nicholas* IV. " Power is granted to the Inquiſitors of taking Cognizance of the Crimes of " *Jews*, as often as they offend againſt the Old Teſtament, or induce any " Chriſtian to *Judaiſm*, or circumciſe him, or compel him to deny the Ca- " tholick Faith."

Pope *John* XXII. alſo, as *Bzovius* relates under the Year 1319. §. 9. by a Letter N°. 190. renewed the Conſtitutions of *Clement.* IV. and other his Predeceſſors, and by ſeverer Laws encreaſed the Power given to the Inquiſitors againſt them; commanding that they ſhould gather together and burn all the Books of the *Talmud*, and puniſh thoſe who were convicted of execrable Blaſphemies. In the Month of *December* following, by the Command of Friar *Bernard Guido*, Inquiſitor of heretical Pravity, the Books of the *Jews* called the *Talmud*, were as many of them as could be found in the Poſſeſſion of the *Jews*, burnt at *Tholouſe*, after it had been declared by ſworn Examiners, skilful in the *Hebrew* Tongue, that they contained Errors and Blaſphemies againſt the Lord Jeſus Chriſt, and his moſt holy Mother the Virgin *Mary*. Tholoſ. *Inquiſit. fol.* 136.

In the Kingdom of *Valencia* the Inquiſitors may proceed againſt the *Jews*, or *Saracens*, or other unbaptized Infidels dogmatiſing amongſt Chriſtians, eſpecially againſt the *Alfaquins*, or thoſe who hinder the Office of the Inquiſition, or circumciſe Boys, or are Receivers of Hereticks, or who compel any one to deny the Faith, or perſuade them to uſe their Rites or publick Ceremonies. But yet others think that a *Jew*, who ſays to a Chriſtian, *La fede voſtra e fede di* * *Cazzi*, i. e. Your Faith is the Faith of a ——— or who throws Naſtineſs upon the Croſs which is carried in the Litanies, ought not to be puniſhed by the Inquiſitors, but by the ſecular Judge. Royas, *p.* 1. §. 552.

And finally, *Gregory* XIII. *An.* 1581. publiſhed a Conſtitution, beginning, *Antiqua Judæorum improbitas*, by which he granted Power to the Inquiſitors of heretical Pravity, freely to proceed againſt the *Jews* in the following Caſes. " If they deny Matters of Faith common to them and Chriſtians. If " they invoke Devils, or ſacrifice to them. If they teach any Chriſtian *Comp. Bul. par.* 2. *p.* 178.

* *Cazzi* is an obſcene Word.

" theſe

" theſe Things, or bring them to them. If they ſpeak heretical Blaſphe-
" mies. If they pervert a Chriſtian from the Faith. If they hinder Infidels
" from coming over to the Faith of Chriſt. If they knowingly receive an
" Heretick, or give him Aſſiſtance. If they keep heretical Books, or Tal-
" mudical, or any other *Jewiſh* Books any ways condemned. If they deride
" the ſalutary Hoſt, or the Croſs, or the like Things, or Chriſtians. If they
" keep Chriſtian Nurſes, or ſhall compel them from the Day in which
" they have received the Sacrament of the Euchariſt, to throw their Milk
" into the Jakes."

But eſpecially in the Kingdom of *Spain* and *Portugal* the Inquiſition is introduced to detect and puniſh thoſe who, being *Jews*, have embraced the Chriſtian Religion, and witneſſed their Profeſſion by the ſolemn receiving of Baptiſm, and have afterwards turn'd again to *Judaiſm*.

Pegna, *Com.* 25. *in* 3. *part.* Eymerick.

There are ſeveral Signs by which it may be collected, that a Perſon is revolted to *Judaiſm*. Anciently the converted *Jews* themſelves allowed, that it might be known by certain Marks which of them were not ſincerely converted to Chriſt, but cheriſhed *Judaiſm* in their Heart in a certain Ordinance made in the Name of the King of *Spain*, about the Year 653. *Leg. del Fuero Jurgo. lib.* 12. as follows.

*To our moſt clement and ſerene Lord, King* Roceſuind. *All we* Hebrews *of the City of* Toledo *and* Spain, *your Glory, who have under-written our Names, or put our Marks. We well and juſtly remember that we were compelled to think it our Duty to write our Opinion in the Name of King* Chintillan, *of holy Memory, for preſerving the Catholick Faith, even as we have done. But becauſe the Perfidiouſneſs of our Obſtinacy, and the Antiquity of our Error that we have derived from our Fathers, hath ſo poſſeſſed us, that we have neither truly believed in Jeſus Chriſt the Lord, nor ſincerely kept the Catholick Faith: We now therefore willingly and readily promiſe your Glory by this our Ordinance, as well for our ſelves, as for our Wives and Children, that we will never hereafter mix in any* Jewiſh *Obſervations or inceſtuous Cuſtoms. And as we are baptized, we will never more in any ſort be joined with the* Jews *in an execrable Society; nor will we, according to our Cuſtom, ever be joined with them by Nearneſs of Blood, even to the ſixth Degree, by an inceſtuous Pollution in Matrimony or Fornication. We will not enter into Marriages with our Race in any ſort, neither our ſelves or our Children, or any of our Poſterity, but as to both Sexes we will henceforwards marry only with Chriſtians. We will not work the Circumciſion of the Fleſh. We will not celebrate the Paſſover and Sabbaths, and other Holy-days, according to the Rite of* Jewiſh *Obſervation. We will not obſerve the Difference or Cuſtom of Meats, nor do any of all thoſe Things, which the Uſe and abominable Cuſtom and Converſation of the* Jews *doth. But we believe with a ſincere Faith, grateful Mind, and entire Devotion in Chriſt, the Son of the living God, according to the Evangelick and Apoſtolical Tradition, and him we confeſs and adore. We do alſo truly hold and ſincerely embrace all the Cuſtoms of the holy Chriſtian Religion, as well as to Holy-days as to Marriages and Foods, and all other Obſervations, without reſerving to our ſelves any Object of Oppoſition, or fallacious Argument, by which we will do again thoſe Things which we*

*have*

*have denied to do, or not ſincerely fulfil thoſe Things which we have promiſed to obſerve. And as to Swines Fleſh we promiſe to obſerve, that if we cannot poſſibly eat it through Cuſtom, yet that we will, without Contempt or Horror, take and eat Things that are dreſſed with it. And if in all theſe Things which are above mentioned, we ſhall be found Tranſgreſſors in any the leaſt Point, or ſhall preſume to act contrary to the Chriſtian Faith, or ſhall delay to fulfil in Word and Deed what we have promiſed agreeable to the Catholick Religion: We ſwear by the ſame Father, Son and Holy Spirit, who is one in Trinity, and the true God, that whoſoever of us ſhall be found a Tranſgreſſor of all or any one of theſe Things, he ſhall periſh with new Flames or Stones. Or if Goodneſs ſhall reſerve him for Life to your Glory, he ſhall loſe his Liberty, and forfeit all his Subſtance, and ſhall be for ever a Slave to any Perſon you ſhall appoint. And whatſoever you ſhall command to be done as to him or his Effects, you ſhall not only have free Power to do it by the Power of your Kingdom, but by the Engagement of this our Ordinance. This Ordinance was made* March 21. *in the happy Sixth Year of the Reign of your Glory, in the Name of God, at* Toledo.

But *Pegna* is of Opinion, that a more certain Suſpicion of ſecret *Judaiſm* ariſes from other obſerved Rites of the *Jews*, *viz.* from too intimate converſing with them, by frequenting the Places in which they dwell, and eſpecially the Synagogues, by the Obſervations of the Sabbaths, and many other Things, than from their Abſtinence from Swines Fleſh, which may be either unpleaſant to the Taſte, or nauſeous to the Stomach. This Conſideration particularly affects the new Converts, who, through Cuſtom, cannot be ſuppoſed eaſily to reliſh Swines Fleſh, or other Meats forbidden them before their Converſion. But this doth not hold as to their Children and Grandchildren, and other Deſcendants, who can't be ſuppoſed to abſtain from theſe Things for any other Reaſon, but their Reverence and Approbation of this accurſed Sect, becauſe the Reaſon of Cuſtom cannot be pleaded in their Behalf, though it may as to thoſe who are themſelves converted.

Amongſt other Signs of ſecret *Judaiſm*, the Name that a Perſon takes is accounted one. For they ſay 'tis cuſtomary amongſt the *Hebrews* frequently to give the ſame Name to thoſe who come over or return to their Sect, which they had before they were baptized. If therefore any Perſon, after Baptiſm, in which he put off his old *Jewiſh* Name, and took the Name of ſome Saint, according to the Cuſtom of Chriſtians, ſhall take it again, or ſome other Name familiar and uſual amongſt the *Jews*; it will be a Preſumption that he approves *Judaiſm*.

In how many, and in what Caſes the *Jews* and other Infidels are ſubject to the Power of the Inquiſitors, *Gregory* XIII. hath largely declared, *An.* 1581. by a Reſcript, beginning, *Antiqua Judæorum*, which ſhall be hereafter mentioned.

As to the Puniſhments of ſuch offending *Jews*, their Crimes are diſtinguiſhed into three Sorts. Some of them are common to them and Chriſtians. Others are againſt the Chriſtian or rather Popiſh Faith. And laſtly, others againſt their own Faith, which are not to be treated of here. Carena, *p.* 2. *t.* 14. §. 18.

As to Crimes of the firſt ſort, reſpecting them as well as Chriſtians, ſuch are declared Hereticks who deny God to be Almighty. If they confeſs that they ſaid and believed this, they are compelled to abjure as for formal Hereſy. If they confeſs they ſaid it, but deny that they believed it, they muſt be tortured as to their Intention, and be made to abjure as well as Chriſtians, according to the Degree of the Suſpicion, whether light or vehement.

As to Crimes of the ſecond ſort, they are tortured only to get out the Truth, and diſcover their Accomplices. For in theſe Things they are not truly Hereticks; but becauſe they grievouſly offend againſt the Chriſtian or Popiſh Faith, they are uſually puniſhed in a very ſevere Manner; and in this Caſe they are not compelled to abjure, becauſe the Church doth not compel them to the Faith.

The Puniſhments which the Inquiſitors inflict upon the *Jews* who offend in the aforeſaid Caſes, are various, and lighter or heavier, according to the Nature or Degree of the Crimes, *viz.* Privation of all Converſation with Chriſtians, Fines, perpetual Impriſonment, Whipping, and alſo to be delivered over into the Power of the ſecular Arm.

*Finis Libri Tertii.*

# THE HISTORY OF THE INQUISITION.

## VOL. II.

## BOOK IV.

### Of the Manner of Proceeding before the Tribunal of the INQUISITION.

### CHAP. I.

*How the* INQUISITOR *begins his Office.*

IT now remains that we give an Account of what relates to the Execution of the Inquiſitorial Office. This will be a more difficult Task, becauſe, altho' the Inquiſitors are bound to certain Laws, yet many Things are left to their Pleaſure. Beſides, the very Application of the Laws to particular Caſes, which come before the Inquiſitors; and alſo the Method of proceeding and drawing a Confeſſion from the Priſoners, depends very much on their Will. Hence it comes to paſs, that altho' all the Inquiſitors are directed by certain general Laws, ſo that one and the ſame general Method of Proceeding is obſerved by all, yet, as to many Circumſtances, the Method is very various and different, which beſides cannot be ſo fully explained, becauſe the Inquiſitors learn many Things rather by Uſe and Practice, than by Inſtruction and Precepts; eſpecially conſidering that they oblige all Perſons by Oath, whom they diſmiſs from the Priſon of the Inquiſition, to Silence; that the Secrets of the Inquiſition, as tho' they

were the ſacred Myſteries of *Ceres*, may not by any Means be revealed. I have determined therefore faithfully to give my Reader whatſoever the Popiſh Doctors and the Inquiſitors themſelves have with great Labour gathered together from the Laws, Papal Bulls, and their Inſtructions, concerning the Method of Proceeding, and to illuſtrate the Whole by ſuch Examples as offer themſelves to me. And that I may omit nothing, I will trace this Matter from the very Beginning, *viz.* from the very firſt Moment in which the Inquiſitor begins his Office, down to the Acts of Faith, in which the Sentences are pronounced upon all the Priſoners, and actually put in Execution.

*Direct. Inq. part.* 3. *n.* 1. When the Inquiſitor is firſt conſtituted by the Pope, he muſt preſent himſelf to the King, or temporal Lord of thoſe Territories, in which the Inquiſitor is deputed by the Apoſtolick See, and exhibit his Apoſtolick

2. Commiſſion. Then he muſt demand his Protection for himſelf, his Colleague, Notary, Servants and their Effects, and his Orders to his Officials to obey the Inquiſitor in apprehending Hereticks, their Believers, Receivers, Defenders, Favourers, and ſuch as are defamed for Hereſy, and that they do all and ſingular Matters that belong to their Office in making Execution againſt the aforeſaid, to extirpate heretical Pravity, and to extol the Catholick Faith, whenſoever, and as often as they are required by the Inquiſitor, or in his Name.

4. When he hath obtained theſe Letters, he muſt likewiſe exhibit his Apoſtolick Commiſſion to the Arch-Biſhop and Metropolitan of the Province to which he is deputed; as alſo to all the Biſhops and their Vicars, to whoſe

5. Dioceſſes he is ſent. After this he muſt ſhew the Letters which he hath obtained from the King or temporal Lord of the Place, to his Officials, and require of them, according to the Law of the Emperor *Frederick*, that at the Deſire of the Inquiſitor, or other Catholick Men, they will apprehend Hereticks, and when taken, ſtrictly keep them, till being condemned by the

6. Eccleſiaſtical Cenſure, they periſh with an accurſed Death. Finally, he takes an Oath from theſe Officials for their defending the Church againſt heretical Pravity, and that they will obey the Inquiſitor with all their Might, for

8. which End he ſummons them before him by Letters. If they appear, he

10. propoſes the Form of the Oath to them. If they conſent to take it, they muſt do it publickly in the Church, or in ſome other Place appointed for that Purpoſe, upon their bended Knees, and their Hands upon the Book of the Goſpels. If the Officials deſire Time to conſider, and refuſe after the Expiration of it to take the Oath, the Inquiſitor, a few Days after, muſt cite them before him, and demand of them to take the Oath, under the Penalty of Excommunication. If they appear within the fixed Term, and conſent to ſwear, the ſame Form of the Oath is ſhewn them. If they do not appear, after the ſaid Time is elapſed, they are declared excommunicate, and the Excommunication is ordered to be publiſhed in the Cathedral Church. After the denouncing the Excommunication, they are abſolved from the Sentence of it if they will take the Oath, and enjoined ſome hard arbitrary

arbitrary wholeſome Penance, as ſhall be moſt conducive to the Honour of the Faith. When their Abſolution is given, they are denounced free from Excommunication. However, they cannot be abſolved, unleſs they firſt take this Oath, at the Command of the Inquiſitor. *I ſwear that I will obey the Commands of the Church.* Or thus: *I ſwear that I will ſtand to and obey thy Commands.*

But if they abide under this Sentence of Excommunication two or three Months, the Proceſſes are aggravated, and they are commanded to be denounced publickly excommunicated in the aforeſaid Churches, with lighted Candles thrown on the Ground, or put out in Water, and the Bells rung once or oftener in a Week or Day. If without being terrified by this Excommunication, they refuſe to take the Oath, they are not only excommunicated, but all who have any manner of Converſe with them, who eat, drink or talk with them. If nevertheleſs they perſevere in their Contumacy, 27.
their Lands are put under an Eccleſiaſtical Interdict. If after this they will 33.
not take the Oath, they are deprived of the Honour and Office of Government, as infamous, Favourers of Hereticks, and ſuſpected of the Faith, and are condemned to be never hereafter admitted to any publick Office or Dignity; and whatſoever they do after this is null, according to the Chap. *Ad abolendam.* §. *Statuimus.* Extra. de hæret. and Chap. *Ut officium.* §. *Statuimus.* lib. 6. And this Sentence is commanded to be publiſhed by thoſe who have the Cure of Souls in the Cathedral and other Churches. If the City or Place acquieſces in the Sentence, and deprives ſuch Perſons of their Offices; others are choſe in their Room, who, before they are admitted to the Diſcharge of their Office, are bound to take the Oath which the others have refuſed. But if the City doth not ſubmit to the Sentence, but ſupports their Officials, tho' deprived of their Offices by the Inquiſitor, he may cut it off from all Communication with other Cities, and deprive it of the Epiſcopal Dignity. But they think it better to acquaint the Pope with the Contumacy of ſuch a City, that he may order in what Manner to proceed againſt it.

At this Day the Inquiſitors in *Spain*, when they enter upon their Province Simanc.
or City, where they never were before, muſt in the firſt place ſhew their *c.* 44. § 1.
Letters of Delegation, by which they are created Inquiſitors, to the Chapter of the greater Church, and Conſiſtory of the City, that it may appear that they are Judges of the Cauſes of Hereſy. 1 *Inſtruct. Hiſpal. cap.* 1. And ſuch who have offended therein muſt be proſcribed by the Inquiſitors, Pegna,
and apprehended and puniſhed by the Royal Hand. *in direct.*

But if the Officials, terrified by the more grievous Denunciation of the In- *p.* 432.
quiſitor, take the Oath, they are freed from their Excommunication, but *n.* 16.
receive an heavy Penance, which is always encreaſed, according as their Contumacy is longer or more aggravated. In their firſt Penance they are enjoin'd to ſtand in the Gate of the Church, or on the Steps before the Altar, on ſeveral *Sundays*, or Holy-days, whilſt the greater Maſs is ſaying, and there is a large Concourſe of People, without Hat or Shoes, and to hold in their Hands a Wax Taper of a certain Weight, and to offer it to the Prieſt

Prieſt when the Maſs is ended. Or they muſt do this always, or at ſome certain Time, when it happens that the Inquiſitor makes a general Sermon for the Faith. Other milder Puniſhments may be alſo thought of; for Inſtance, ſome larger Almſgiving, the building ſome holy Place, and the
*n.* 24. like. But if they perſiſt longer in their Contumacy, there is ſomewhat added by way of Penance, which directly turns to the Honour of the Chriſtian Faith.

*n.* 37. During theſe Tranſactions, whether the Oath be taken or not, the Inquiſitor may and muſt appoint in every Biſhoprick one Commiſſary of forty Years old, a religious or ſecular Clergyman, a wiſe and prudent Perſon, famous for Knowledge and good Manners, and zealous for the holy Faith, with a Power of receiving Denunciations and Informations or Accuſations from or againſt any Perſons whatſoever, and of proceeding, and doing other Things, which the Inquiſitor himſelf, if preſent, could do.

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## CHAP. II.

### *Of the Promulgation of the* EDICT *of* FAITH.

47. THE Commiſſaries thus appointed or not, the Inquiſitor appoints a general Sermon, according to the Preſcript of the Council of *Biterre.* Cap. 1. *And then calling together the Clergy and People, and propounding to them the Word of God, declare the Command that is given you, and the Cauſe of your coming, reading the Letters, by Authority of which you are to proceed, even as you know you ought to do.* And that there may be no Hindrance to the Offices of the Church, he muſt not appoint this Sermon on a ſolemn Feſtival, but on the common *Sunday*, excepting *Lent*, or the *Advent*; and muſt take Care that the Rectors of the Churches have theſe Letters of Indiction on *Sunday*, that the *Sunday* after they may ap-
50. point the general Sermon to be the *Sunday* following. And that the Solemnity of that Day may be the greater, all other Sermons on it muſt be ſuſpended; and it muſt be notified to all the Heads of Religious Houſes, and Indulgencies of forty Days promiſed to all who come to the Sermon. When the *Sunday* before that, on which the general Sermon is to be made, comes, the Inquiſitor muſt admoniſh the Heads of Religious Houſes, that two or four of each Religion be preſent at the ſaid Sermon.

51. On the *Sunday* appointed, the Inquiſitor makes the general Sermon to the People, in which he ſpeaks concerning the Faith, commends it, and exhorts the People to the Defence of it, and the Extirpation of heretical Pravity. When the Sermon is ended, he admoniſhes the People, that 'tis their Duty to diſcover it to the Inquiſitor, if they have known any Perſon that hath ſpoken or done any thing againſt the Faith, or who holds any Error. After

ter this Admonition he commands monitory Letters to be read from the Pulpit by his Notary, or ſome other Clergyman, by which all Perſons, of what- n. 52.
ſoever Condition or State, Clergy or Laity, are commanded, under Pain of n. 53.
Excommunication, to diſcover to the Inquiſitor within ſix or twelve Days next following, any Heretick or Perſon ſuſpected of Hereſy that they know. Theſe monitory Letters are an Edict of the Faith, and uſually read out of the Pulpit. I will here add, as what will give a Light to whatſoever I ſhall ſay of the Inquiſition, a Copy of it, not only of that which is publiſhed in *Spain*, but alſo of that which at this Day is publiſhed in *Italy*, tranſlated from the *Italian*.

## *A General* EDICT *of the Inquiſition at* Cremona.

WE Peter Camporeus, *by divine Mercy, Cardinal Presbyter of St.* Thomas *in* Parione, *Biſhop of* Cremona, *Earl*, &c. *and we* Vincentius Peter Serravallenſis, *Predicant, D. D. and Inquiſitor General of* Cremona, *and of the Dioceſe thereof, eſpecially delegated by the holy Apoſtolick See againſt heretical Pravity.*

*Deſiring, according as the holy Office conferred on us requires us, that the moſt holy Catholick Faith, without which no one can pleaſe God, may be preſerved pure and free from all heretical Contagion, we by the Apoſtolick Authority granted us, do command all and ſingular Perſons under our Juriſdiction, of whatſoever Condition, State, Degree, or Dignity, as well Eccleſiaſtical as ſecular, whatſoever it be, by Virtue of their holy Obedience, and under Penalty of Excommunication,* latæ ſententiæ, *and other Penalties which the ſacred Canons, Decrees, Conſtitutions, and Bulls of the chief Pontiffs ordain, that within twelve Days enſuing, the four firſt of which we aſſign for the firſt Term, the four next immediately following for the ſecond, and the other remaining four for the third, laſt and peremptory Term, they do juridically diſcover and notify to the holy Office, or the Ordinary, all and ſingular Perſons whom they know, or of whom they have had Notice, or ſhall have Notice for the future.*

*If any Perſons are Hereticks, or ſuſpected, or defamed for Hereſy, or Believers, Favourers, Receivers or Defenders of them; or who have, or do adhere to the Rites of the* Jews, Mahometans, Saracens *or* Gentiles, *or who have apoſtatiſed from the holy Chriſtian Faith, or who have or do in any manner, expreſsly or tacitly invocate the Devil, or have done, or do him honour, or who have had any Part, or have, or do concern themſelves in any magical Trick, Necromancy, Incantations, or other like ſuperſtitious Acts, eſpecially with the Abuſe of any ſacred Thing.*

*If any Perſons not being Prieſts, have with an impious Boldneſs, or do uſurp to themſelves the Celebration of Maſs, or have, or do preſume to adminiſter the Sacrament of Penance to the Faithful of Chriſt.*

*If any have, or do abuſe the Sacrament of Penance, contrary to the Apoſtolical Decrees and Conſtitutions.*

*If any have, or do hold ſecret Conventicles in the Matter of Religion.*

*If any utter heretical Blaſphemies againſt God, or his Saints, and eſpecially againſt the moſt bleſſed Virgin* Mary.

*If*

*If any do, or have hindred the Office of the holy Inquiſition, or do, or have injured any Witneſs, Accuſer, or Miniſter of it.*

*If any have, or do keep Books or Writings containing Hereſies, or the Books of Hereticks, which treat of Religion, without Authority of the holy Apoſtolick See, or who have or do read, print, or cauſe them to be printed, or defend them, under any Pretence or Colour, or Books of Necromancy, Magick, or containing ſorcerous Incantations and the like Superſtitions, eſpecially if with the Abuſe of ſacred Things.*

*Declaring, that tho' we do expreſsly ſpecify as above the Caſes which ought to be diſcovered, we do not exclude other Caſes relating to the holy Office, which are always contained in the ſacred Canons, Decrees, Conſtitutions, and Bulls of the chief Pontiffs.*

*And that no one can be abſolved from the aforeſaid Excommunication and Penalties, which the Diſobedient incur, but by us or the ſupream Tribunal of the Inquiſition at* Rome, *nor ſhall be abſolved, unleſs he ſhall firſt give Satisfaction, by juridically revealing the ſaid Hereticks, or as above, thoſe ſuſpected of Hereſy.*

*And becauſe much of the Service of God, and the private and publick Good, in theſe Particulars, greatly depends upon the Endeavours of the Confeſſors, we command all the reverend Confeſſors, that in the Adminiſtration of the Sacrament of Penance, they uſe all that Diligence in interrogating thoſe who confeſs to them, concerning all the aforeſaid Heads, which they ſhall think reſpectively neceſſary, both as to thoſe who are principal Offenders, and thoſe who are Partakers of, and any ways conſcious to thoſe Offences. And we command the ſaid Confeſſors, under the ſaid Penalty of Excommunication,* latæ ſententiæ, *and as above, that they do not preſume to abſolve thoſe whom they ſhall find to have offended, or to be Partakers, or conſcious, as above, in the aforeſaid Particulars, becauſe they have incurred thoſe Cenſures which are reſerved by the holy See, to its Delegates.*

*Admoniſhing, that ſuch Perſons do not ſatisfy, nor are underſtood to ſatisfy theſe our Commands, who pretend to diſcover Delinquents by Papers or Letters without the Name or Sirname of the Authors, or by any other uncertain Method, becauſe they may be abſolutely ſecure, that they ſhall not be diſcovered, according to the Cuſtom of this holy Office, and do not lay themſelves under a Neceſſity of proving what they declare.*

*And that this our preſent general Edict may be known to all, and no one pretend Ignorance, we command all the reverend Arch-Presbyters, Curates and Rectors of Churches, ſubject to our Juriſdiction, or their Vicars, in Virtue of their holy Obedience, under Pain of Excommunication, that the firſt Holyday after they receive it, they ſhall be abſolutely obliged to publiſh, read, or cauſe it to be read, at length, before the People, when they ſhall be met together in largeſt Numbers in their ſaid Churches, and when publiſhed, cauſe it to be fixed up upon the principal Gate of the ſaid Churches, or ſome other publick Place, where it may be ſeen and read of all; and this alſo we enjoin all the Priors of Monaſteries.*

*Farther, 'tis our Pleaſure, that under the ſame Penalties they ſhall be obliged to read it again before the ſaid People, twice at leaſt in a Year,* viz. *upon one* Sunday *in* Lent, *and one in* Advent.

*And*

*And that they may obey this our Commandment as they ought, they muſt have a Copy from the ſacred Congregation it ſelf, always fixed upon the Sacriſties of their Churches.*

*According to the Deſire which we have, that this our Juriſdiction may be preſerved in that Purity of the Faith in which it now is, adhering to the above-mentioned Edict, and other Commands of the ſacred Congregation, we command, under Pain of Excommunication, and other arbitrary Penalties.*

*That no Currier, Sailor, Muletier, or others, preſume to carry Books either into or out of any City, or other Places ſubject to us, no not as he paſſes by, if he hath not a Catalogue of the Books ſubſcribed by the Inquiſitor, or other Perſon to whom it belongs, living in thoſe Places from whence they come, or thro' which they paſs, under Penalty of loſing the Books, and other Puniſhments, according to our Pleaſure.*

*Under the ſame Penalties and Loſs of the Books, we command, that no Perſon, whoſoever he be, do receive ſuch Books when imported, or any ways brought in to this our Juriſdiction, nor open Boxes, Bales or Bundles, in which ſuch Books are, nor carry them away from the Cuſtom-Houſe, without our Leave, or that of our Vicars, and till they have firſt given a Catalogue to the holy Office, or ſhewed them to it, if they have imported them without Licence.*

*That no Merchant preſume to receive or ſend Books, under Pretence of Goods packed up in Bundles, Bales or Boxes, without due Licence, under Pain of Excommunication, Forfeiture of the Books and Goods in which they are packed up. And what is here ſaid concerning the importing or receiving Books, is alſo to be underſtood of all Sorts of News Papers, Pictures and Almanacks, and ſuch like Papers.*

*All the aforeſaid Things we likewiſe command the* Jews, *under the Penalty of fifty Pieces of Gold, the Forfeiture of Books and Goods as above, and others, to be reſpectively inflicted according to our Pleaſure.*

*We command all Bookſellers in this our Juriſdiction, under the ſame Penalty of Excommunication, and other arbitrary Puniſhments, that they don't preſume to ſell Books bought of the* Jews, *whether within or without the City.*

*Printers alſo ſhall not, under the ſame Penalties and other arbitrary ones, print any thing without our Licence, except the Edicts and other like Matters of the Epiſcopal and ſecular Court, which are not to the Prejudice of the holy Office.*

*The Impoſt-Gatherers, Cuſtom-Houſe Officers, and Officers of Ports, ſhall not permit any Books to be imported or exported without a written Catalogue as above. And when any are brought to the Place of their Office without ſuch written Catalogue, let them detain the Books, and be obliged to ſhew them to us or our Vicars. And this we command, under Pain of Excommunication, and other arbitrary Puniſhments.*

*And to give Credit to theſe Things, we have written this Edict, and ſigned it with our own proper Hand.*

*Dated at the Holy Office at* Cremona, October 26, 1639.

P. *Cardinal* Camporeus *Biſhop of* Cremona.
F. Vincent Peter, *Inquiſitor of* Cremona.
Jerom Calcinous, *Chancellor.*

## The Form of an EDICT of FAITH used in *Spain*.

Param. l. 3. q. 5. §. 43.

*WE the Inquisitors of heretical Pravity and Apostacy, by that Apostolick Authority we possess, especially delegated on this Account to us in the Dioceses of* N. *or* N. *&c. to all and singular, as well Clergy as Laity, Regulars as Seculars, of every State, Condition, Quality, Degree, Order, Religion, Dignity or Pre-eminence, exempt, or not exempt, to all and every one of you, to whom this our general Edict shall be known, Salvation in our Lord Jesus Christ, who is the true Salvation, and to our Commands, which are more truly Apostolick Words, firm Obedience, Submission and Observance. We make known to you, that the Licentiate or Doctor* N. *Promoter and Advocate Fiscal of this holy Office, hath appeared before us, and declared that it hath been long since known to us, and is very certain, that in many Places of this District and Territory, there hath not been held a general Visitation and Inquisition; and that for this Reason many Offences committed and perpetrated against our most holy Catholick Faith, which it is fit and right should be punished and chastised, have not come to our Knowledge and Notice, the Consequence of which hath been grievous Offence to God, and great Damage and Prejudice to the Christian Religion. For which Reasons we have commanded and appointed the aforesaid Inquisition, and general Visitation to be made and executed, and have caused the publick Edicts to be published and read, designing that all who shall be found guilty of these Wickednesses and Crimes shall be chastised, that so our Catholick Faith may every Day more flourish, and be exalted high, and greatly encrease. Assenting therefore to his most just Petition, and earnest Request, even as we ought, and desiring to use the best Remedy in those Things which relate to the Honour of God, and our blessed Lord, we have commanded and ordained this present Command, and publick and general Edict to be made and published amongst all and singular, and every one of you, for the same mentioned Cause and Reason, that if you know, understand, or have seen, or previously found out, that any living Man or Woman, present or absent, or already dead, hath made, published, said or spoken any or more Opinions or Words heretical, suspected, erroneous, rash, ill-sounding, savouring of Scandal, or any heretical Blasphemy against God, and his holy Catholick Faith, and against that which our holy Mother the Church of* Rome *embraces, teaches, preaches, and holds, you declare, speak and manifest it to us.*

*And first, if you know, or have heard that any Men or Women have kept or observed any Sabbath, according to the Rites, Ceremonies, and Observance of the Law of* Moses, *and on the said Days have put on a clean and fresh Shirt or Shift, and other Garments, or better, handsomer and Holyday Cloaths; or have laid clean Napkins on the Table, and clean Sheets on the Bed, in Honour of the said Sabbath; or have not blown up, nor kindled their Fire; or have abstained from all other Work on the said Sabbath, and begun to keep them from* Friday *Evening; or have washed their Meat; or drawn out and taken away the Sewet from that Flesh they were about to eat, soaking it in Water to suck and draw out the Blood; or have cut the Nerve or Gland out of the Leg or Thigh of a Sheep or Goat, or any other Animal; or have killed Animals by sticking them, and as it were muttering out certain and determinate*

*minate Words, trying first of all their Knife upon their Nail, to see whether it be sharp, or notched, or blunt, afterward covering the Ground with the Blood; or who have eat Flesh in* Lent, *and other Days forbidden by the holy Mother Church, without any Necessity to urge or require it, certainly thinking and believing that they may lawfully eat them, and without Sin; or who have kept the greater and solemn Fast, which they call the Fast of Remission and Indulgence, going that Day without Shoes, and with their Feet naked; or have prayed after the Manner of the* Jews, *and at Night have asked Pardon one of another; or Fathers have laid their Hands on their Childrens Heads, without pronouncing any Words, or giving them any Blessing; or saying, Be ye blessed by God and us, according as the Law of* Moses *directs, and the Tradition thereof.*

*Or who have kept the Fast of Queen* Esther, *or the Fast commonly called* Ramadan, *upon account of the Loss and Destruction of the Holy Land and House, or other Fasts of the* Jews, *within the Week,* viz. *by abstaining from Meat* Monday *or* Thursday, *till the Evening, when the Stars begin to shine, and from Flesh during those Nights, cutting their Nails and Ends of their Hair; keeping all those Things, or burning them; reciting* Jewish *Prayers; lifting up, or bowing down their Heads; turning their Face to the Wall; and before these Things washing their Hands in Water or Earth; putting on Garments of Sackcloth, with twisted Fringes, hanging down at the End of the Girdle, made with little Threads or Thongs of Leather, and formed into Tossels.*

*Or who have celebrated the Passover of unleavened Bread, beginning this sort of Food with Lettice, Parsley, or other green Herbs; or have observed the Passover of Tabernacles, by fixing up green Boughs, or rich Tapestry; Feasting, and accepting each others Invitations to eat and drink together; or the Passover of Candles; lighting up Candles gradually, and one after another, till they come to the Tenth, after which they extinguish them, and recite* Jewish *Prayers on such Days. Or if they say Grace after the Manner of the* Jews, *drinking Wine made at home, and celebrate what they call the* Baraka, i. e. *receiving with one Hand a Cup or Vessel of Wine, and pronouncing over it certain Words; after which they give a Draught of Wine to all that sit down. Or if they eat Flesh killed or slain by the Hands of the* Jews; *or sit at their Table; or taste their Meats; or recite the Psalms of* David *without the* Gloria Patri; *or if they expect the Messiah promised in the Law; or have said that the Messiah promised in the Law is not yet come, but is to come; and that they yet expect him to deliver them from that Bondage, which they say they are under, and to lead them into the Land of Promise. Or if any Woman, after Child-bearing, delays going to the Temple forty Days, according to the Rite of the Law of* Moses, *and is purified, according to the Ceremony thereof. Or if they circumcise new-born Infants, and give them* Jewish *Names, calling them thereby. Or if they have shaved, or caused to be shaved the Chrism, or the Parts of those newly baptized, which have been anointed with Oil and Chrism; or if they have taken a Bason full of Water the seventh Night after the Birth of a Child, throwing into it Gold, Silver, Jewels, Wheat, Barley, and the like; to wash the new-born Infant with the said Water, pronouncing certain Words; or have recommended their Children either to Witches or Magicians. Or if any have been married after*

the Jewiſh *Manner, or have celebrated the* Ruaia *when they go a Journey; or if they have born* Jewiſh *Names; or if at any time they have baked leavened Bread, and taken out the Leaven from it, and thrown it into the Fire after the Manner and Rule of a Sacrifice; or if any one about to die, turns to the Wall to breathe out his Spirit; or if they waſh any dead Corpſe with warm Water, ſhaving the Hairs under his Armpit, and the other hairy Parts of his Body, covering the dead Body with new Linnen Breeches, and a Shrowd, with a Veil thrown over it, putting a Pillow under the Head, and ſome new or Virgin Earth; or putting into the Mouth a Piece of Money, or a Jewel, or any Thing elſe. Or have waſh'd with Water the Houſe of a dead Perſon out of the Pitchers and Tubs of the Houſe, and other Houſes of the Neighbours, after the* Jewiſh *Ceremony; eating on the Ground behind the Doors, Fiſh and Olives, not Fleſh; in token of Mourning for the Deceaſed; not going out of their Houſe for a whole Year, according to the Obſervation of the ſaid Law; or if they bury them in new and Virgin Earth, or in the Burial-Place of the* Jews; *or if any return and become converted to* Judaiſm; *or if any one ſhall ſay that the Law of* Moſes *is equally holy with that which is given by our Lord and Saviour Jeſus Chriſt.*

*Or if ye know or have heard that any Men or Women have ſaid and affirmed that the Sect of* Mahomet *is good, and that there is no other by which any one can enter into Heaven, and aſcend into Paradiſe; and that Jeſus Chriſt is not God, but a Prophet; nor born of our Lady the Virgin* Mary, *a Virgin before, in and after his Birth; or hath done any of the Rites and Ceremonies of the* Mahometan *Sect, with an Intention to obſerve and keep them. For Inſtance, If they eat Fleſh on* Fridays *as tho' they were Holydays, or on other Days forbidden by our holy Mother Church, affirming it to be no Sin, putting on the ſaid* Fridays *new and clean Shirts and Shifts, and other Holiday Garments or Cloaths; or if they have killed Birds, or cut off the Heads of Cattle, or any Thing elſe, by ſticking it with a Knife, leaving the Epiglottis to the Head, and turning the Face to the* Alkibla, i. e. *towards the Eaſt, ſaying,* Vizmila, *binding the Feet of Cattle; or if they abſtain from eating of Birds, whoſe Heads are not cut off by the Hands of Women, and the Women will not cut off their Heads, becauſe 'tis prohibited them in the* Mahometan *Sect. Or if they circumciſe their Sons giving them Names of the ſaid Sect, or calling them by the Names of the* Moors *and* Saracens; *they who name them ſo, or they who have cauſed themſelves to be called by Names belonging to the* Agarenes, *or when they are ſo called, giving a Sign of Joy; or who have ſaid that there are no other in Heaven but God and* Mahomet *his Meſſenger and Legate; or who have ſworn by* Alquibla, *or* Alayminſula, i. e. *according to them by all that is ſacred; or who have kept the Faſt of* Ramadam, *by obſerving the Paſſover thereof, and giving Alms the ſame Day to the Poor, and abſtaining from all Meat and Drink from Morning to Evening, till the riſing of the Star, and then indulge to Fleſh and other Meats; or who have celebrated* Zohor, *riſing before Day-break, and ſtuffing themſelves with Meat before 'tis light, after this waſhing their Mouths, and returning to Bed; or have celebrated* Guadoc, *waſhing their Arms from the Wriſt to the Elbow, their Cheeks, Mouths, Noſes, Ears, Legs, and Privy Parts; or after having done theſe Things have celebrated* Zala, *turning their Face towards* Alquibla, *being on a* Spartan Carpet,

*Carpet, or Tapestry, raising up and bowing down the Neck, pronouncing certain and determinate* Arabick *Words, and reciting the Prayer which they call* Allanda lu ley and colhua and guohat, *and the like* Arabick *Prayers; eating no Swines Flesh, nor drinking Wine according to the Rule and Observation of the* Saracen *Sect; or who have celebrated the Passover of the Lamb or Ram, and killed him, making and celebrating first of all* Guadoc; *or if any have married after the* Mahometan *Manner, and sung the* Arabian *Songs of* Moors, *or have celebrated* Zambras; *or* Leleylas, *with prohibited and forbidden musical Instruments, observing the five Precepts and Commands of* Mahomet.

*Or if any one hath tied up for himself or his Children, or other Persons,* Liancas, i. e. *one Hand in Memory of the five Precepts; or hath washed the Dead, buried the Corpse wrapped up in new Linnen, putting it into new, pure, or Virgin Earth; or who have ordered these Things in their hollow Sepulchres, putting a Stone at the Head of it, and putting into the Sepulchres green Boughs, Milk, Honey, and other Meats; or who have cried out, and called upon* Mahomet *in all their Events and Actions, saying, that he is a Prophet, the Messenger of God, and that the first Temple of God was in* Mecca, *where they believe* Mahomet *was buried; or who have said that they did not receive Baptism with the Intention and Faith of the holy Mother the Catholick Church; or who have said that their Fathers who died in the* Mahometan *or* Jewish *Sect, and that a* Saracen *or* Jew, *each tenacious of his own Sect, may be saved; or if any Person hath fled over to the* Turks, *or Infidels, and denied the Catholick Faith, and departed from it; or gone to other Parts and Places without these Kingdoms, to profess the* Jewish *or* Mahometan *Sect; or have done, held, or said any other Rites or Ceremonies of the* Saracens.

*Or if you know, or have heard that any Men or Women have said, held, or believed the false and condemned Sect of* Martin Luther *and his Followers to be true, holy, and approved; or have believed or approved his other Opinions, by asserting that Confession to a Priest is not necessary; that 'tis sufficient to confess to God only; that the Pope and Priests have not Power to absolve Sins; that in the Host there is not truly contained the Body of our Lord Jesus Christ; that Saints are not to be invocated; that Images are to be taken out of Churches; that there is no Purgatory; that the Dead are not to be prayed for; that good Works are not necessary; that Faith only with Baptism is sufficient to Salvation; that any one may hear another's Confession, and give the Communion under both Kinds of Bread and Wine; that the Pope hath no Power to confer Indulgences, Graces, Indults, and Bulls; that the Clergy, Religious, Monks, and Nuns, may contract Matrimony; or who have said that the Religious, Monks, Monasteries, and Ceremonies of Religion ought to be taken away; or have said that God hath not instituted the Religions, and that a Marriage State is more perfect than the Religious State of the Clergy and Monks; and that there are no Holidays besides the Lord's Days; that 'tis no Sin to eat Flesh on* Fridays, Vigils *and* Lent; *because eating Flesh is not forbidden and limited to certain Days; or who have believed any one or more of the Opinions of* M. Luther *or his Followers; or fled over to other Provinces to profess* Lutheranism.

*Or if you know, or have heard that any Men or Woman, living or dead, have said or affirmed that the Sect of the Illuminated, or Relicts is approved; particularly*

that

*that mental Prayer is of divine Appointment; and that all other Duties are fulfilled in it; and that Prayer is a Sacrament under Accidents; and that mental Prayer is of great Weight and Efficacy, and vocal Prayer of but small Moment; that the Servants of God are not to be distracted by bodily Exercises; that the Prelate, Father, or Superior are not to be obeyed, if they command Things that call Persons off from Contemplation and mental Prayer; or if by Words they have derogated from the Sacrament of Matrimony; and said that no one can get the Secret of Virtue, unless he become the Disciple of those Masters who teach the aforesaid perverse Doctrine; and that no one can be saved, who is not taught by such Masters, and generally confessed to them; and that certain secret and inward Ardors, Tremors, Extasies, Shiverings and Faintings, which they undergo, are Signs of a vehement Love towards God; and that from hence it may be certainly discerned that they are in a State of Grace, and have the holy Spirit within them; and that being thus perfect, they want no other Helps, and ought not to be obliged to laborious Acts; and that when they attain to a certain prefixed Term of Perfection, the divine Essence, and the Mysteries of the Trinity may be beheld in this Life, and are actually beheld; and that the Holy Spirit doth immediately govern those who thus live; and that the internal Motion and Inspiration of the Holy Ghost is only to be followed in what they do, or refuse to do; or who say that when the most Holy Host, in the Sacrifice of the Mass, is held out to View, the necessary Rite and Ceremony, during the Elevation, is to shut the Eyes; or that any Persons have said and affirmed, that when they are come to a certain determinate Point of Perfection, 'tis a Sin to look on the Images of the Saints, to be present at Sermons, pious Conferences, and other Exercises of the said Sect, and absurd Doctrine.*

*Or if ye know or have heard of any other Heresies, and especially these. That there is no Paradise, nor heavenly Glory for the Good, nor Hell for the Wicked, but that the Soul perishes together with the Body, with other heretical Blasphemies, such as, I do not believe, but disbelieve, defy and deny our Lord God, the Virgin Purity of our Lady, the Virgin* Mary, *or the He and She Saints of Heaven. Or who have, or have had familiar Spirits, calling upon them, making Circles, and asking them concerning certain Matters, or waiting for their Answers. Or whether they have been Fortune-Tellers or Gypsies; or have made a tacit or express Covenant with the Devil, mixing sacred Things with profane, in Confirmation of it; attributing to the Creature that which belongs to the Creator only; or that any Person, being a Clergyman, or in holy Orders, or a professed Religious, hath contracted Matrimony; or that any one, not being invested with the sacerdotal Character, hath said or celebrated Mass, or administred any Sacrament of our holy Mother the Church. Or that any Confessor, or Priests being Confessors, or Religious or Seculars, of whatsoever State or Dignity, hath enticed the Daughters of Penance in the Act of Confession, or immediately after it, by provoking or inducing them, by Deeds or Words, to filthy, carnal and immodest Acts. Or if any Person whatsoever hath married twice, or oftener, the former Wife or Husband being living. Or that any one hath said or asserted that simple Fornication, Usury or excessive Interest or Perjury, are not mortal Sins; or that it is better to live in a State of Concubinage than in lawful Wedlock; or hath disgracefully used and done Despite to the Images of Saints and Crosses; or that any*

*Man*

*Man or Woman hath not believed the Articles of the Catholick Faith; or called any of them into Queſtion; or hath ſtaid and continued for a Year or longer under Excommunication; or hath deſpiſed the Cenſures of our holy Mother the Church, by ſaying or doing any Thing againſt them.*

*Or if ye know, or have heard of any Perſons, Men or Women, that under Pretence of Aſtrological Science, or Looks or Aſpects of the Stars, or by the Lines and Tokens of the Hands, or any ſuch Things, do by this Knowledge, Faculty, or any other Way, anſwer or foretel future Things depending on the Liberty and Free-will of Man, or accidental Things that may come to paſs, or Things already paſt that are ſecret and free, ſaying and affirming that there is a certain Art, Science, and certain Rules whereby to know theſe Things, in order to perſuade People to ſeek after and conſult the aforeſaid Diviners concerning the ſaid Matters, when, on the contrary, the ſaid Science is falſe, vain and ſuperſtitious, and turns to the great Damage and Prejudice of Religion and the Chriſtian Faith.*

*Likewiſe if ye know, or have heard that any Men or Women have had, or have Books of the Sect and Opinion of* Martin Luther, *or other Hereticks, or the Alcoran of* Mahomet, *and other Books of the ſaid Sect, or Bibles in the* Spaniſh *Tongue, or any other Books or Writings condemned and prohibited by the Cenſures, Catalogues and Edicts of the holy Office of the Inquiſition; or any Men or Women who have not fulfilled that to which they were obliged; or who have omitted to detect, diſcover and ſay what they know in theſe Affairs; or who have ſaid to, or perſuaded other Perſons not to declare theſe Things, and give Information to the Inquiſitors; or who have ſuborned or corrupted Witneſſes to give Evidence againſt thoſe who have depoſed in the Court of the holy Office; or that any Men or Women have depoſed and given falſe Witneſs againſt others to their Damage and Infamy; or who have cheriſhed, received, concealed and hid Hereticks, by giving them Favour and Aſſiſtance, in order to conceal and preſerve their Perſons and Effects; or who have been any Hindrance by themſelves, or by the Interpoſition of other Perſons, to the free and right Adminiſtration of the holy Office of the Inquiſition, their Miniſters and Officials, and Family; or who have taken down, or cauſed to be taken down the Habits or* Sanbenito's *from thoſe Places, in which they were put up by the holy Office, or have put up others in their Room; or that thoſe who have been reconciled and enjoin'd Penance by the Office of the holy Inquiſition, have not fulfilled the fixed Times of their Impriſonment, or the Penance enjoin'd them; or if they refuſed publickly to wear the Habit of Reconciliation; or that any Perſons reconciled publickly or privately, being enjoined the Yoke of Penance by the holy Office, have ſaid or affirmed, that what they confeſſed before the holy Office, either of themſelves or others, was falſe, that they did, and ſaid it thro' the Influence of Fear, or for any other Reaſon; or have revealed the Secret committed and commended to them by the holy Office; or that any Perſons have ſaid that thoſe who were delivered over by the holy Office of the Inquiſition, were condemned without any previous Fault, or ſuffered as Martyrs; or that any Men or Women reconciled, or the Children or Grandchildren of Perſons condemned for the Crime of Hereſy, have adminiſtred, or do adminiſter publick and honourable Offices, which are prohibited them by divine Law, and by the Laws and Pragmaticks of theſe Kingdoms, and the Inſtitutions of the holy Office; or have been promoted to ſacred Orders; or have any Eccleſiaſtical*

*or*

*or Secular Gift or Dignity; or the Enſigns of ſuch Dignity; or have worn prohibited Things, ſuch as Arms, Silk, Gold, Silver, Blood-ſtone, Jewels, Corrals, fine Cloth; or have got on Horſeback, or rid as Horſemen; or that there are any Proceſſes, Acts, Denunciations, Informations or Proofs concerning the Crimes contained in this Edict, in the Hands of any Notary, Attorney, or any other Perſon whatſoever.*

*By Virtue of theſe Preſents therefore we admoniſh, exhort and require, and command you, and every one of you, in Virtue of your holy Obedience, and under the Penalty of Excommunication,* latæ ſententiæ, *after three Canonical Admonitions, that if you have known, done, ſeen or heard any Man or Woman, or Perſons, to have committed, ſaid, held, or affirmed any of the Things aforeſaid and declared, or other Things, whatſoever they be, againſt our holy Catholick Faith, and againſt what our holy Mother the Catholick Church of* Rome *holds, teaches and preaches, as well concerning Perſons living, preſent or abſent, as dead, you do, without mentioning it to any other Perſon, for thus 'tis convenient and becoming, come and appear perſonally before us, to declare and manifeſt it within ſix Days immediately following the Day of the Publication of this our Edict, altho' you may by any Means have had a Part in, or Knowledge of this Matter; giving you previous Admonition, which we now do, that after the ſaid Term is lapſed, and Obedience not paid to the aforeſaid, beſides that you incur the ſaid Cenſures and Penalties, we ſhall proceed againſt them who ſhall have been found contumacious, diſobedient, and rebellious, as againſt Perſons who fraudulently cover and conceal theſe Things, and who have wrong Sentiments concerning Matters of the holy Catholick Faith, and the Eccleſiaſtical Cenſures. And becauſe the Abſolution of the Crime and Offence of Hereſy is ſpecially reſerved to us, we forbid and prohibit, under the aforeſaid Penalty, all Confeſſors whatſoever, Clergy or Religious, that they do not abſolve any Man or Woman intangled in, or guilty of this Crime, or who have not ſaid or diſcovered to the holy Office whatſoever they have known of theſe Things, or heard others ſay, Yea, who have not ſent it to us, that the Truth being known and found out, evil Men may be puniſhed, and good and faithful Chriſtians may be known and honoured, and our holy Catholick Faith may be happily ſpread. And that all the aforeſaid Matters may come to the Knowledge of all, and no one may excuſe himſelf by pretending Ignorance, we command them to be publiſhed this Day.*

Pegna 3. *part. com.* 12. Simanc. *tit.* 44. §. 2.

In many Places, but eſpecially in *Spain*, 'tis the Cuſtom, that when the Sermon of the Catholick Faith is ended, all promiſe upon Oath, before the Crucifix and Goſpels, that they will give Favour, Help and Counſel to the holy Inquiſition, and the Miniſters of it; and that they will by no Means directly or indirectly hinder them. This Oath the Magiſtrates of Cities muſt particularly take, which muſt be regiſtred amongſt the Acts by the Notaries of the Inquiſition, 1 *Inſtruct. Hiſpal. cap.* 1, 2. This Oath the Inquiſitor may force them to take, and will do it when he thinks fit. In all other Caſes he muſt follow the received Cuſtom of the City, where he is, to prevent Innovations, and that there may be no Hindrance in this Cauſe.

The Form of the Oath they are obliged to take is this. *We the Viceroy, or Pretor,* &c. *of ſuch a Province, or City, or Place; and ſuch Conſuls or Jurats of ſuch a City,* &c. *at the Requeſt and Admonition of the Reverend Lord Inquiſitor, Doctor or Licentiate* N. *as true, faithful and obedient to the holy Church*

*Church of God, do promiſe and ſwear by theſe holy four Goſpels placed before us, and by us corporally touched, that we will hold, and cauſe to be held, obſerve, and order to be obſerved, the Faith of our Lord Jeſus Chriſt, and of the holy* Roman *Church, and defend it to our utmoſt againſt all Perſons; alſo that we will proſecute and apprehend, or cauſe to be apprehended, whenſoever we can, Hereticks, their Believers, Favourers and Receivers, and their Defenders, and thoſe who are defamed or ſuſpected of Hereſy, and we will accuſe and denounce them to the Church or Inquiſitors, when we know them to be any where, or any one of them, eſpecially when we ſhall be required hereto. Likewiſe that we will not grant Ballives, Saionies*, or any publick Offices, of any Name whatſoever, to any one of the aforeſaid pernicious Perſons, or to ſuch as are ſuſpected or defamed of Hereſy, nor to any other Perſon who ſhall have been judged unworthy of it upon account of Hereſy, or otherwiſe prohibited by the Inquiſitors or the Law, from enjoying publick Offices; nor will we permit them to enjoy the aforeſaid, or to hold publick Offices. Likewiſe that we will receive none of the aforeſaid Perſons, nor entertain them knowingly in our Family, Converſation, Service or Counſel. And if the contrary ſhould happen, thro' Ignorance, we will immediately expel them, after it ſhall come to our Knowledge by the Church, or Inquiſitors of heretical Pravity, or their Commiſſaries: And that in theſe Things and all others which belong to the Office of the Inquiſition of heretical Pravity, we will be obedient to God, and the Church of* Rome, *and the Inquiſitors of the ſaid heretical Pravity, according to our Duty and Ability. So help us God, and theſe holy Goſpels of God, upon which we ſwear, and which we touch with our own Hands.*

This Form of Swearing was drawn from the Conſtitution of the Emperor *Frederick* II. publiſhed at *Padua*, *Feb.* 22. 1239. *Indict.* 12. and is annexed to it, with four other Conſtitutions of the ſame Day, of which mention is made in the firſt Book, which were afterwards inſerted in the Reſcripts of ſeveral Popes.

After the Sentence of Excommunication is read, the Inquiſitor explains it more diſtinctly, and reduces it to ſeveral Heads. Then he publiſhes an Indulgence of forty Days to all who come to his Sermon, and promiſes, in the Name of the Pope, Indulgences for three Years, to all who give him Counſel or Favour in his Office of reducing Hereticks. He alſo adds three other Years of Indulgences to thoſe who diſcover to him any Heretick, or Perſon defamed for Hereſy, or ſuſpected, or who in any other Caſe bear true Witneſs before him in a Cauſe of Faith, according to the Privilege of *Urban* IV. *Direct. p.* 3. *n.* 54, 55.

Finally, he aſſigns a Time of Grace to all Hereticks, and their Favourers, and Perſons ſuſpected of Hereſy, *viz.* the entire Month following, and promiſes, that if within that Space they come to him freely, or not admoniſh'd, by Name, and don't wait till they are denounced, accuſed or apprehended, and voluntarily diſcover their Guilt, and ask Pardon, they ſhall obtain large Pardon and Mercy, *viz.* Freedom from Death, Impriſonment, Baniſhment, and Confiſcation of Effects, according to the Determination of the Council of *Biterre*, cap. 2. *Farther, do you command that all, who know themſelves or others to have offended in the Crime of heretical Pravity, do appear before* 56.

* *Ballivæ* and *Saioniæ* are a ſort of Meſſengers attending on Princes and Magiſtrates.

*you to ſpeak the Truth, aſſigning them a competent Term, which you uſually call the Time of Grace, who otherwiſe would not have had ſuch Grace ſhewn them. And ſuch who appear within this Term, and are penitent, and ſpeak the whole Truth of themſelves and others, let them be free from the Puniſhment of Death, Impriſonment, Baniſhment, and Confiſcation of Effects.* However, this Power of granting Pardon is allowed the Inquiſitors only when they are ſent to a City or Dioceſe, in which the Inquiſition is firſt erected. *Inſtruct. Hiſpal. A.* 1484. cap. 1, 2, 3. but not when upon the Death or Removal of an Inquiſitor, another is put into his Place. In *Spain* alſo the Letters Patent of ſuch Grace muſt be inſerted in the Edict.

Pegna, *Com.* 12.

## CHAP. III.

### *Of the Obligation to denounce every* HERETICK *to the* INQUISITORS.

THE Publication of the Edict of Faith is repeated every Year, and all are obliged, under Penalty of Excommunication, to be preſent at the publiſhing of it, and at the general Sermon concerning the Faith, unleſs they are prevented by Sickneſs, Age, or any other Hindrance, and can make a legal Excuſe.

The Oath which all Perſons, not only private, but Magiſtrates, are compelled by the Inquiſitors to take, obliges them not to obſtruct the Office of the Inquiſition, either directly or indirectly. Such are believed to obſtruct it indirectly, who do not reveal the Truth they know, *i. e.* do not accuſe to the Inquiſitor every one they know to be an Heretick, or ſuſpected of Hereſy. So that in *Spain* they are doubly obliged to accuſe to the Inquiſitor every Heretick, firſt under Penalty of Excommunication, which they incur if they are wanting in their Duty; and ſecondly, by their own Oath.

In order therefore to excite all Perſons to turn Accuſers, the Popiſh Doctors lay the greateſt Streſs they can upon this Obligation to accuſe. *Camillus Campegius*, after laying together the Teſtimonies of ſeveral Doctors, teaches, that every one is obliged to accuſe and teſtify, and that according to *Cajetan*, he is bound to it as neceſſary to Salvation; if there be no other way of preventing the general Danger but by this Method, and then concludes in theſe Words: *Theſe Things ought ſo to excite every faithful and Catholick Perſon, as to engage them willingly to accuſe or denounce and bear Witneſs, for the common Good of the Chriſtian Religion, without the Admonition, Citation or Puniſhment of the Judge. Tho' this ought to be obſerved in all Caſes, yet it ought to be done with greater Ardency in the Affair of the Chriſtian Faith, ſince hereby we not only avoid the moſt ſevere Puniſhments, but ſecure incomparable Rewards, thro' the Bounty of the ſupream God, and the Favour of his holy Church.*

*In* Zanchin. *s.* 13. *d.*

Nor

Nor is there any Regard to Kindred in this Affair. For the Brother is bound under the ſame Penalty to accuſe his Brother, yea, the Wife her Huſband, and the Husband his Wife, if guilty, or ſuſpected of Hereſy. *Pegna* however thinks, that the Wife is to be excuſed, if ſhe doth not accuſe her Huſband for eating Fleſh on prohibited Days; if the Huſband be a terrible Fellow, and ſhe is afraid of ill Uſage from him. In all other Caſes he thinks the Wife is obliged to accuſe her Huſband. *Direct. part.* 2. *com.* 78.

[*Ludovicus a Paramo* tells us, that *Lewis de Carvajal*, altho' Governor and Captain General of the Province of *Tampico* and *Pamico*, was forced to walk out in publick Penance, becauſe he did not denounce four Women, who were ſecretly *Jews*, and to whom he was Uncle; and that tho' a little before he had the honourable Title of Preſident, he was forced to hear his ignominious Sentence publickly, was for ever deprived of all Offices under the King, reduced to the loweſt Miſery, and thro' Grief and Wearineſs of his Life, ſoon went the Way of all Fleſh.] *l.* 2. *t.* 2. *c.* 21. *n.* 16.

'Tis diſputed amongſt the Popiſh Doctors, whether a Son be obliged to accuſe his Father, who is a ſecret Heretick, or at leaſt to diſcover him to the Judges. The general Opinion is, that he is obliged to it. But others think differently, becauſe there is no Law, natural, divine, or human, that lays ſuch a Burthen on the Shoulders of Children. And yet even ſuch who are of this Opinion, confeſs the Son may do it, eſpecially if the Father be incorrigible. Yea, think ſuch a Son ought to be commended who conquers his natural Love, and overcomes this moſt ſtrong Affection, from an ardent Love to divine Religion. He muſt however try every Method before he accuſes his Father to the Judge. But yet they teach, that there are two Caſes in which the Son is obliged to betray his heretical Father to the Judges. The firſt, when the Son is legally interrogated by the Apoſtolick Inquiſitors; the ſecond, when the Father's Hereſy is dangerous to the Common-wealth. Simanc. *de Cathol. Inſt. tit.* 29. §. 35. &c.

*Pegna* however affirms, that the Son ought to accuſe and denounce before the Inquiſitors, his Father, whom he knows to be an Heretick. The Reward of ſuch Accuſation is, that the Son who thus acts, is freed from the Penalties ordained againſt the Children of Hereticks, according to the Law of the Emperor *Frederick*. *Nor do we think proper to exclude from the Bounds of Mercy ſuch, who not following the Hereſy of their Fathers, ſhall diſcover their ſecret Wickedneſs; ſo that in what manner ſoever the Father's Guilt be puniſhed, let not the Innocence of their Children be ſubject to the aforeſaid Puniſhment.* *Carena* adds, that not only an heretical Father, but even one only ſuſpected of Hereſy, muſt be accuſed by the Son to the Inquiſitors, becauſe the ſame Reaſons hold good as to Hereticks, and thoſe ſuſpected of Hereſy. *In* Eymer. *part.* 2. *com.* 15.

An Heretick alſo reformed, according to *Royas*, ought neceſſarily to be accuſed before the Inquiſitors of the Faith; becauſe they often feign themſelves to be corrected and amended, and in the mean while infect with their Doctrine unwary Catholicks. And altho' ſuch Hereticks ſhould be really reformed, 'tis nevertheleſs uſeful and neceſſary to accuſe them, that the Inquiſitors of the Faith may interrogate them from what Maſters they learnt *Part.* 2. *Aſſert.* 3.

their Errors; what Diſciples they taught before their Converſion; or if any of their Friends and Acquaintance have been corrupted by their perverſe Doctrine. He ſaith this may be gathered from the *Madrid* Inſtruction, *A.* 1561. *c.* 53. *in fin.*

*Lib.* 3. *qu.* 5. *n.* 40. And from this Obligation to accuſe, no one is freed, of whatſoever Order and Dignity they may be. For the Edict of Faith obliges all. So that they will have neither Princes nor Kings themſelves exempted. *Ludovicus a Paramo* proves this by a famous Inſtance. *Joan* the Daughter of the Emperor *Charles* V. was cited by the Inquiſitors to be interrogated before them, againſt a certain Perſon concerning ſome Things relating to the Faith. She conſulted her Father, who adviſed her to make her Depoſition without any Delay, leaſt ſhe ſhould incur Excommunication, not only againſt others, but even againſt himſelf, if ſhe knew him to be blameable in the leaſt Matter. *Joan* obeyed this Command of her Father, and immediately depoſed before *Ferdinand Valdez*, Arch-Biſhop of *Seville*, at that Time Biſhop and Inquiſitor General.

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## CHAP. IV.

### *Of ſuch who voluntarily appear, and the Grace ſhewn them.*

Simanc. *tit.* 44. §. 4. "'TIS the preſent Cuſtom in *Spain* for one of the Inquiſitors in theſe "Acts, to viſit the Province, and to propoſe general Edicts where- "ever he goes, by which he commands, under Penalty of Excommunica- "tion, that whoſoever knows of any Thing done or ſaid againſt the Catho- "lick Faith and Evangelick Law, he muſt immediately diſcover it to the "Inquiſitor. Whatever is reported, muſt be ſecretly written down by the "Notary of the Inquiſitors. The other of the Inquiſitors remains in the Ci- "ty in which their Reſidence is fixed, and muſt preſide, in ordering the "Acts of Cauſes. But if there be no Occaſion for his Reſidence there, that "he may not ſit idle, he muſt viſit in the ſame Manner the other Part of "the Province, 5 *Inſtruct. Hiſpal.* cap. 2.

§. 5. "This Viſitation and general Inquiſition the Inquiſitors muſt make, each "in his Turn, thro' all the Cities and Corporations of their Province; and "if they are negligent in this Affair, they muſt be deprived of their Office.

§. 6. "In this Viſitation the Inquiſitors may compel all thoſe whom they judge "proper, to ſwear and bear Witneſs, and muſt take particular Care not to "be entertained by thoſe who are related and akin to Hereticks, *Jews*, and "*Mahometans*, which muſt alſo be obſerved by their Miniſters. Nor muſt "they receive any Gratuity from the Perſons where they lodge, becauſe they "are to be content with their Salaries, and becauſe ſometimes an intimate "Friendſhip is contracted by this Means, 8 *Inſtruct. Tolet.* c. 19."

Whilſt

Whilſt one of them is viſiting the Province, the other Inquiſitor ſtays at home, that all who come voluntarily may have Acceſs to him. If they come within the appointed Term, and accuſe themſelves, he treats them more gently. He muſt not however admit them after the Manner of Sacramental Confeſſion, but after the Manner of Confeſſion in a judicial Court; ſo that they muſt declare their Crime before the Inquiſitor, and the Notary take down their Confeſſion. *Direct. part.* 3. §. 58.

After ſuch Confeſſion, every one of them is interrogated by the Inquiſitor, whether he hath adhered to ſuch Errors, or only been in doubt concerning them? For how long Space of Time he hath continued in them? From whom, and how he learnt them? Whether he hath had and read any heretical or ſuſpected Books? What they were, from whom he had them, and what he hath done with them? Other Queſtions are added concerning his Accomplices in Hereſies, that he may tell the Names of all thoſe Hereticks, or Perſons ſuſpected of Hereſy, whom he knows. He is farther asked, Whether he hath ever been inquiſited, proceſſed, or accuſed or denounced in any Tribunal, or before any Judge, on account of the aforeſaid Errors, or other Things relating to Hereſy? He is alſo admoniſhed ſimply to tell the whole Truth which he knows, as well of himſelf as of others; becauſe, if he is afterwards found deceitfully to have concealed any Thing, he is judged as one whoſe Confeſſion is imperfect, and as impenitent, and feignedly converted. Finally, he is interrogated, Whether he repents of theſe Errors and Hereſies into which he hath fallen? And whether he is ready to abjure, curſe and deteſt them, and all other Hereſies whatſoever, that exalt themſelves againſt the holy Apoſtolick and *Roman* Church, and to live for the future catholickly, according to the Faith of the Church of *Rome*, and devoutly to fulfil the ſalutary Penance enjoined him? Pegna, *prax. Inq. l.* 2. *c.* 4. *n.* 6, &c.

If the Inquiſitor finds that he was before admoniſhed, yet he is to be dealt with more gently, becauſe he appeared voluntarily. For ſuch are ſaid voluntarily to return to Favour, who come within the Time of Grace, altho' they have been admoniſhed. For they don't appear to be forced, ſince they are apprehended by no one. Yea, 'tis the ſame if they come after the Time of Grace, whilſt their Cauſe is entire, becauſe they were not perſonally required, nor the Proofs againſt them received. *n.* 60. *Lucerna Inq. in voc.* redire.

However, at their firſt Appearance, the Inquiſitors muſt not write down, that they appeared voluntarily; becauſe ſuch Appearance, after Accuſation, altho' the Perſon may not have been verbally cited, is not preſumed to be voluntary, nor made with a candid and pure Will, but is rather thro' Terror, and unwilling, thro' Fear and Dread of the Proofs, to avoid the ordinary Puniſhments. However, it may be minuted down, that ſuch a one appeared not cited or called. *n.* 12.

If the Crime be entirely concealed, the Inquiſitor may abſolve him ſecretly, enjoining him wholeſome Penance. But if it be not ſecret, and the Perſon confeſſes that he hath not only believed wrong, but hath revealed his erroneous Belief to others, and infected them, the Inquiſitor muſt proceed againſt him, *n.* 61. *n.* 62.

him, according to the Canonical Sanctions, but yet in a milder Manner, becauſe he came of himſelf, without being called on, and within the Time of Grace.

Carena, *annot. in Pegnam. Ibid.*

If thoſe who thus voluntarily confeſs, ſay, that they have done any external Action againſt the Faith, without any Error of the Underſtanding, altho' ſome ſort of Proof may have preceded, they muſt not be proved to be Hereticks; for thoſe who are ready to be corrected, muſt by no Means be reckoned amongſt Hereticks. From theſe Things they infer, that if any one confeſſes that he hath done certain *Jewiſh* Ceremonies, or thoſe of any other Sect, upon the account of ſome Profit to himſelf, he is not to be accounted an Heretick. This ſometimes is the Caſe of Captives, who, without any other Intention, but that of their being better freed from their Captivity, externally deny the Faith. *San Vincente* the Inquiſitor tells us, That he ſaw a certain Perſon who wanted to ſatisfy his luſtful Deſires upon a Woman, who was one of the newly converted *Saracens*. She promiſed to lie carnally with him, if he would firſt perform a Ceremony of their Sect, called *Gaodoc*. He, tho' an old Chriſtian, in order to gratify his lewd Inclinations, did it, but immediately went and voluntarily confeſſed it, adding that he had no other evil Intention. After conſulting the ſupream Senate, he was abſolved, *An.* 1618. A Caſe may however happen, when a Perſon who makes a voluntary Confeſſion, may be obliged to abjure vehemently. A certain new Chriſtian of the *Saracens* being driven from *Spain*, was afterwards taken by the Chriſtians. He immediately accuſed himſelf, that whilſt he was amongſt the *Moors*, he did ſome Ceremonies and Acts of the *Mahometan* Sect, denying an evil Intention therein. But as ſome of theſe Things ſeemed to the Inquiſitor entirely voluntary, *viz.* his marrying an Infidel *Mooriſh* Woman for his Wife, without any Violence, or any other Advantage, he examined his Fellow-Captives; and when it was proved that he made his Confeſſion thro' Fear of Proof, it was determined that he ſhould abjure as vehement, which Determination pleaſed the ſupream Council. But when this very Criminal had been kept in Cuſtody a few Days, in order to his confeſſing the whole Truth, he made the Confeſſion deſired, and was reconciled in Form.

However, ſuch as come voluntarily, are far from eſcaping all Puniſhment, but are either treated kindly at the Pleaſure of the Inquiſitor, according to the Quality of their Perſons and Crimes, or elſe condemned to pay a Fine, or give Alms, or ſome ſuch Works of Charity. But if they wait till they are accuſed, denounced, cited or apprehended, or ſuffer the Time of Grace to ſlip over, they are pronounced unworthy of it.

And in this Caſe many fooliſhly deceive themſelves with a falſe Opinion, believing, that becauſe Favour is promiſed to ſuch who appear voluntarily, they ſhall be free from all Puniſhment; becauſe they are only ſaved from the more terrible ones, it being left to the Pleaſure of the Inquiſitors to inflict ſome penitential Puniſhment on them, according to the Nature of their Crime, as will appear from the following Inſtance. "There was at the "City of *Cadiz*, a certain Foreigner, who yet had lived in *Spain* for twenty "Years,

Gonſalv. *p.* 193.

" Years, who, according to a common Superſtition, dwelt in a Deſart in a " certain Chapel, upon the Account of Religion. Hearing in his Chapel of " the great Number of thoſe who were taken up every Day at *Seville* by the " Inquiſitors, for what they call the *Lutheran* Hereſies; having heard alſo " of the Decree of the Inquiſitors, by which he was commanded, under the " Terrors of Excommunication, immediately to diſcover to the Inquiſition " whatſoever he knew of thoſe Things, either as to others or himſelf; the " poor ſtupid Hermit comes to *Seville*, goes to the Inquiſitors and accuſes him- " ſelf, becauſe he thought the ſaid Inquiſitors would uſe ſingular Clemency " towards thoſe who thus betrayed themſelves. His Crime was, That where- " as, being about twenty Years before this at *Genoa*, and hearing a certain " Brother of his diſputing about a Man's Juſtification by Faith in Chriſt; of " Purgatory, and other Things of the like Nature, he did not wholly condemn " them, tho' he never thought of them afterwards. He therefore acknow- " ledged his Crime, and came to ask Mercy. When the Lords Inquiſitors " had received his Confeſſion, they commanded the poor Hermit to Jayl, " where, after a long Confinement, he was brought out in publick Proceſ- " ſion, and was ſentenced to wear the Sanbenito, to three Years Impriſon- " ment, and the Forfeiture of his Effects."

Sometimes alſo they uſe a certain Stratagem to draw Perſons to a volun- *Ib.* 202.
tary Appearance before the Inquiſitors. " When they have apprehended " any remarkable Perſon, who hath been the Teacher of others, or who " they know hath been reſorted to by many others, upon account of his " Doctrine and Learning, as being a Teacher and Preacher of great Re- " pute; 'tis uſual with them to cauſe a Report to be ſpread amongſt the " People, by their Familiars, that being grievouſly tortured, he has diſco- " vered ſeveral of thoſe that had adhered to him, ſuborning ſome Perſons " out of the neighbouring Priſons, to aſſert that they heard his Cries amidſt " his Tortures, in order to give the greater Credit to the Report. Theſe " Reports are ſpread for this Reaſon, that ſuch who have attended on his In- " ſtructions, or have been any ways familiar with him, may in time go to " the holy Tribunal, confeſs their Fault, and implore Mercy, before they " are ſent for, or apprehended. By this Means they impoſe on many, who, " if they had waited for their Summons, had never been ſummoned at all. " Or if it ſhould have happened that they had been ſummoned, would not " have been dealt with more ſeverely than they generally are who truſt to " the Inquiſitors Promiſes.

CHAP.

## CHAP. V.

### *Of the three Methods of beginning the Proceſs before the Tribunal of the* INQUISITION.

*Direct. p. 3. n. 63.* IF any appear within the Term aſſigned to diſcover Hereticks, *&c.* to reveal to the Inquiſitor certain Matters relating to the Faith, ſuch * Denunciations muſt be received judicially. If ſo great a Number appear, that the Denunciation of all cannot be taken judicially, the Inquiſitor muſt provide himſelf with a diſtinct Book in every Dioceſe, to write down in it all the Denunciations brought to him, the Names of the Denouncers and Witneſſes, and the Town and Place where they dwell; which Book he keeps privately to himſelf, that the Names of the Denouncers may not be diſcovered, and they thereby come into any Danger.

65. When the Time of Grace is elapſed, the Inquiſitor muſt carefully examine the Informations, *viz.* which have the greater Appearance of Truth, and which Crimes are more heinous and prejudicial to the Faith. Where this appears he begins to make Inquiſition, by citing the Informer, giving him his Oath, and taking the beſt Information from him that he can. If he finds no Appearance of Truth, he over-rules it, but however muſt not cancel the Information out of his Book, becauſe what may not be diſcovered at one time, may at another. If he finds an Appearance of Truth, he makes farther Inquiſition.

Now there are three Ways of Proceeding and beginning the Proceſs. Firſt, *Simanc. t. 19. §. 16.* by Accuſation, which muſt be preceded by † Inſcription. Secondly, by Denunciation, which muſt be preceded by a charitative Admonition. But 'tis now the Cuſtom in *Spain*, that Hereticks, altho' concealed, muſt be immediately diſcovered to the Judges, without any brotherly Correction. So that thoſe who, under pretence of brotherly Correction, do not diſcover ſecret Hereticks to the Inquiſitors, and thoſe who adviſe them not to do it, are puniſhed as Concealers of Hereticks, and as Hinderers of the Office of the holy Inquiſition. Thirdly, *Pegna in Direct. p. 3. Com. 16.* by Inquiſition, which muſt be preceded by notorious Suſpicion. This Inquiſition is either General or Special. The General is whenſoever the Inquiſitors viſit their Province, or when being newly created, they go to the Provinces decreed to them, and begin to exerciſe their Inquiſitory Office. For then they publiſh general Edicts, to enquire out ſecret and uncertain Hereticks, for the Exerciſe of which there is no Need of preceding Infamy. But the Inquiſitors are obliged, *ex officio*, thus to act at certain ſtated Times.

* There is this Difference between a Denunciation and an Accuſation. A Denunciation doth not diſable the Perſon that makes it to be a Witneſs, as an Accuſation doth.

† Inſcription is a certain Inſtrument, by which the Accuſer, if he fails in his Proof, binds himſelf to undergo the ſame Puniſhment, which the accuſed Perſon muſt, if the Crime he is accuſed of be fully proved.

In

In ſeveral Inquiſitions 'tis cuſtomary to publiſh ſuch Edicts for the Diſcovery of Hereticks every Year, the ſecond *Sunday* in *Lent*, in the Cathedral Church during the Celebration of Maſs, and therefore on that Day there is no Sermon, that all may more attentively regard the Things contained in that Edict of the Faith. This Method of Inquiſition is preſcribed by the Council of *Tholouſe*, cap. 2. *We ordain that the Arch-Biſhops ſhall oblige by Oath one Prieſt, and two or three, or more, if Need be, of the Laity, of good Reputation, in every Pariſh, as well in Cities as out of them, who may diligently, faithfully and frequently inquire out Hereticks in the ſaid Pariſhes, by ſearching every Houſe, and under-ground Rooms that are remarkably ſuſpicious, and all Buildings leaning upon and joining to ſuch Buildings, and any other hiding Places, all which we command to be deſtroyed; and that if they find any Hereticks, their Believers, Favourers and Receivers, or Defenders, they ſhall take ſpecial Care that they do not eſcape; and they ſhall diſcover them to the Arch-Biſhop or Biſhop, or Lords of ſuch Places, or to their Ballives, with all Speed, that they may ſuffer the deſerved Puniſhment. Let alſo ſuch Abbots as are exempt do the ſame in ſuch Places which are not ſubject by Dioceſan Right to the Ordinaries. Let alſo all Lords of Places be careful to inquire out Hereticks in their Villages, Houſes and Woods, and to deſtroy ſuch adjoining Buildings and under-ground biding Places.* Pegna, *Prax. Inq. l.* 1. *c.* 10. §. 2. *n.* 5.

A ſpecial Inquiſition is a certain Right of proceeding by Office to Condemnation and Puniſhment againſt certain Perſons inquiſited by Name, defamed for particular Crimes, to which the Judge cannot proceed without preceding Infamy, which ſupplies the Place of an Accuſer. However, in the Crime of Hereſy, the Inquiſitor may act upon Signs and probable Suſpicions, where there is no preceding Infamy, and even where he is not ſure of the Body of the Offence, becauſe Hereſy is a Crime that leaves no Traces after it. But in this Caſe he muſt proceed cautiouſly, and very privately, that no Perſon's Reputation and Honour may be injured.

But of theſe three Methods of Proceeding, the firſt, by way of Accuſation, is not uſed; the ſecond, by Formation, altho' common and uſual, yet ſeems rather to be the Beginning than the Completion of the whole Proceſs; becauſe upon Information given againſt thoſe who are guilty of High Treaſon againſt the Divine Majeſty, to the Judges of the Faith, they begin to inquire and to proceed, and in this whole Affair the Inquiſition claims to it ſelf what is otherwiſe done chiefly by Witneſſes. And therefore the Judges are called Inquiſitors, and the Tribunal and Miniſters are ſaid to be of the Office of the moſt holy Inquiſition, from this third Method of Proceeding by Inquiſition. §. 3. *n.* 6.

## CHAP. VI.

### *How the Proceſs begins by way of* INQUISITION.

WHEN the Proceſs is made by Inquiſition, he who goes to the Inquiſitor ſays, that he doth not appear as an Accuſer or Denouncer, but only relates to him that there is ſuch a Report, and that it hath frequently come to the Ears of the Inquiſitor from grave and reputable Perſons, that ſuch a one hath done or ſaid ſome Things againſt the Faith, and the publick Report plainly diſcovers the common Inſinuation. And by this Means the Proceſs is carried on.

*Direct. p. 3. n. 79.* Then the Inquiſitor cauſes certain Witneſſes to be cited, eſpecially grave and reputable Perſons, and in the Preſence of a Notary, and two Religious, or otherwiſe reputable Perſons, inquires of them only concerning the Report. Whether 'tis the common Report of ſuch a one, that he did or ſaid ſuch Things againſt the Faith? How they know there was ſuch a Report? How long ſuch Report hath been? Whether they know ſuch Perſon to be defamed? Whether they know whence the Report aroſe? Whether from ill diſpoſed Perſons or others? And the like.

This is the Command of *Innocent*, Cap. *Qualiter & quando, de Accuſat.* Hence we may gather how Infamy is proved. For the Witneſs muſt ſay, that the Perſon under Conſideration is defamed of ſuch a Crime. And when 'tis inquired of him, in whoſe Account he is infamous, he muſt anſwer with ſuch and ſuch; and unleſs he aſſigns them, he doth not appear to give a good Reaſon of what he ſays. Beſides, it can't be known whether they are ſerious or ill diſpoſed People.

Brunus *de haret. l. 4. c. 7. §. 10.* When the Report is thus proved, the Inquiſitor proceeds to inquire out the Truth of the Affair. For this Purpoſe he cauſes the Witneſſes to be cited, and eſpecially ſuch as have been intimate with the Perſon accuſed, and other reputable Men, and zealous for the Faith; and after giving them their Oath, he inquires of them, not concerning the Report, but the Thing it ſelf, in Preſence of the Notaries, and two religious or reputable Perſons. After this he proceeds to draw out a Confeſſion from the Criminal himſelf. And firſt he goes to the Place of the Inquiſition, where, when the Criminal appears before him, he tells him that he is excited and moved by the Fame and frequent Reports, that he the Criminal appearing and ſtanding before him, hath taught, written, or publickly declared certain Things againſt the Truth of the Catholick Faith, or that he hath believed and favoured ſuch who teach theſe Things, or received or defended them. That therefore he, according to his Office, cannot diſſemble that there is ſuch a Report; however, that he will not condemn him, till theſe Crimes are legally and plainly proved before him.

If

If the Criminal be not defamed of the Crimes laid in the Articles of the Inquiſition, and he makes this Exception, the Promoter Fiſcal and the Denouncer muſt neceſſarily prove the Defamation.

If this cannot be done, the Criminal is abſolved from all farther Concern in Judgment. He may alſo prove himſelf to be a Perſon of good Report. For Inſtance, if he is accuſed of being defamed for defending the Doctrine of an Heretick, by ſome Writing that he publiſhed, he may prove that he confuted ſuch Doctrine by writing againſt it; or if he be accuſed of harbouring an Heretick, in ſome Houſe belonging to him, he may prove that he hath no Home in that Place, nor ever had ſince ſuch Perſon hath been taken for an Heretick. He may likewiſe object, that ſuch evil Report was raiſed of him by looſe and infamous Perſons, Enemies, Conſpirators, and the like. Brun. *de hæret. l.* 4. *c.* 8. §. 11.

But if the Inquiſitor proceeds and inquiſits not at the Promotion, Denunciation or Inſtance of another, but *ex mero officio*, the Criminal is not to be heard when he excepts, that he is not defamed of the Crime objected to him; nor is the Judge obliged to regard ſuch Infamy; for there is no Perſon who can oblige him to do it, unleſs the Criminal appeals. In this Caſe the Judge muſt inform his Superior of the Infamy of the Appellant. If alſo any one departs from the common Converſation of the Faithful in divine Worſhip, he is not to be heard, if he alledges that he is not defamed. For Inquiſition may be made againſt him without Infamy. §. 12.

This is the Method of private Inquiſition, according to *Eymerick* and *Brunus*. *Peter*, Biſhop of *Elvas*, gives it in a ſomewhat different Manner, in his firſt Conſultation. *Tr. tr. fol.* 420.

" Let this Manner be obſerved as to a private Inquiſi-
" tion. Firſt, let the Parſon of the Place or Country be ſent for, and car-
" ried to a ſecret Place, and be required upon Oath to declare the Truth.
" When this is done, he muſt be asked if there is a Report that any Per-
" ſon is an Heretick, or ſuſpected of the Faith in his Diſtrict, or a Fa-
" vourer or Receiver of them; and if he ſays there is, he muſt be asked,
" Whether the Report be general? If he can form any probable Conjectures
" from him, the Inquiſitor commands him to name ſome good and reputable
" Perſons, Men and Women, and makes alſo Inquiry of them upon Oath. If
" they agree, and it appears that they proceed not thro' Hatred, Envy or
" Revenge, he enjoins them Secrecy, and tells them he will keep the Mat-
" ter ſecret himſelf, and that they need not fear. After this the defamed
" Heretick muſt be called to a private Place, in the Preſence of ſome
" few Friars, and a Notary of a good Character, and be told; You are ac-
" cuſed and named to me as an Heretick, or a Favourer or Receiver. But
" I am willing to proceed with you in a way of Peace and Secrecy, and
" therefore deſire you will abjure every wicked Hereſy, and give ſufficient
" Security that you will not return to them. The Inquiſitor muſt be care-
" ful not to diſcover the Accuſers to the Perſons accuſed. He muſt alſo ſay,
" If you will ſwear, and do what I deſire you, I am ready to grant you my
" Letters Teſtimonial, that you are of the Number of the Faithful. But if
" you will not do it, I will declare before the People that you are an Here-

"tick, or a Believer of them, nor can I ever receive you without publick "Penance; the Conſequence of which is, that you muſt return and do Pe-"nance, or your Effects will be confiſcated, you will be accounted infa-"mous, be avoided by all, and deprived of all common Privileges. But in "this Affair great Caution is to be uſed. In like Manner let the Inquiſitor "be careful not to grant his Letters too generally, and eſpecially not to thoſe "who have been otherwiſe apprehended, becauſe he ought not to do thus, un-"leſs they do publick Penance.

## CHAP. VII.

### *How the* PROCESS *begins by Accuſation.*

WHEN the Accuſer reports to the Inquiſitor any Crime committed by another, and the Accuſation hath the Appearance of Truth, they proceed in this Manner, according to the Inſtruction of *Eymerick*, which hath been long obſerved. Firſt the Inquiſitor inquires, whether the Accuſer will accuſe, and proceed in the Affair by way of Accuſation, or not? If he ſays he will proceed by way of Accuſation, he is to be admoniſhed by the Inquiſitor, that he renders himſelf liable to the Puniſhment of Retaliation, unleſs his Proof be good. But this Method of Proceeding the Inquiſitor muſt not eaſily allow, becauſe 'tis not cuſtomary in a Cauſe of the Faith, and becauſe 'tis very dangerous, and greatly difficult to the Accuſer. But if the Accuſer perſiſts, he muſt give his Accuſation in Writing, which muſt be written by the Notary, in order to begin the Proceſs. But others contend, that in the Crime of Hereſy 'tis not neceſſary that a Perſon ſhould oblige himſelf to the Law of Retaliation. And as they now ſeldom admit the Perſon of an Accuſer, they have conſtituted a publick Miniſter, whom they call the Fiſcal, who ſuſtains the Perſon of the Accuſer, and accuſes the Criminals, who doth not oblige himſelf to the Puniſhment of Retaliation, nor any others which falſe Accuſers uſually ſuffer.

*Direct. part.* 3. 67. *Pegna, Com.* 14.

71. Formerly, when the Proceſs was carried on at the Inſtance of the Accuſer, after the Accuſation was made before the Inquiſitor, the Inquiſitor commanded the Accuſer to produce the Names of his Witneſſes, who being cited by the Inquiſitor, are ſtrictly examined upon Oath. If what they depoſe doth nothing concern the Fact, the Inquiſitor muſt adviſe the Accuſer, to withdraw the Word Accuſation, and put in the Room of it Denunciation, that ſo the Inquiſitor may proceed *Ex officio*, and not at the Inſtance of the Party, becauſe ſo very dangerous to the Accuſer. But if the Proof of the Witneſſes be full, the Inquiſitor produces them, and giving them their Oaths upon the four Goſpels to declare the Truth, which he can oblige them to take if they refuſe it, ſtrictly examines them in a judicial Manner before the Notary and two religious Perſons, or otherwiſe reputable. Then he interrogates them con-

concerning ſundry Things, as, Whether they know ſuch a one? As to the Occaſion and Time of their knowing him? Concerning his Character? Whether they have ſeen, or heard him ſay, or do any Thing againſt the Faith, and what that was? Where they ſaw him, how often, and who preſent? In what manner he ſaid thoſe Things, whether in Jeſt, or by way of Recital, or whether with a deliberate Mind, and by way of Aſſertion? And finally, whether they depoſe theſe Things thro' Hatred or Rancour? Or whether they omit any Thing thro' Love or Favour? The Anſwers of the Witneſſes to all theſe Queſtions are taken down by the Notary. Theſe Interrogatories of the Witneſſes may be oftentimes repeated at the Pleaſure of the Inquiſitors, that what was omitted in the former Interrogatories may be ſupplied. 72.

## CHAP. VIII.

### *How the* PROCESS *begins by Denunciation.*

BUT if the Accuſer ſays, as is commonly the Caſe, that he will not accuſe, but denounce; and that he doth this thro' Fear of incurring the Penalty of Excommunication, ordered by the Inquiſitor for diſcovering Things pertaining to the Faith within the preſcribed Term, then the Inquiſitor prepares himſelf to make Inquiſition. And becauſe this is the ordinary and moſt generally uſed Method of the Inquiſition, I will deſcribe it more largely and diſtinctly, that hereby the whole Method of making Inquiſition may be more fully underſtood. Eymer. p. 3. m. 62.

When the Denouncer, who is alſo called the appearing Witneſs, comes to the Biſhops or Inquiſitors, before the Notary takes his Denunciation in a juridical Manner, he is uſually asked, what he hath to propoſe? that they may know, whether what he is determined to denounce belongs to the holy Office. Becauſe ſometimes Country ignorant People, or thoſe who are troubled with Scruples, bring ſuch Matters before them, the Cogniſance of which doth not belong to the Inquiſitors. When they find that the Crime brought before them is cogniſable by the holy Office, they make the Denouncer ſwear that he will relate the Truth. After this the Notary receives the whole Denunciation before the Biſhop or Inquiſitor, or their Vicar, taking down the Denunciation, or the Report of the Denouncer in the firſt Perſon. And that there may no Doubt ariſe as to the Validity of the Oath, to ſpoil the Credit of the Denunciation, as the Inquiſitor doth not only take an Oath from the Denouncer, or Witneſs voluntarily appearing, but alſo from the Witneſs who is cited, upon the holy Scriptures touched with their Hands, ſo 'tis farther requiſite, that the Notary ſhould write at length, that ſuch a one *took his Oath touching the Scriptures*, and not only write down, *touching* with an *&c.* that there may be no Difficulty in defending ſuch Acts upon account of this Defect. Pegna, *Prax. Inq.* l. 2. c. 1.

The

*Cap.* 2.

The Oath being taken, the Denouncer is interrogated concerning various Things by the Inquiſitor. "First, if he be not a well known Perſon, he is "interrogated concerning his own Name, Surname, Country, Employment, "and Place of Abode. Then, how long he hath known *N.* againſt whom "he denounces? Likewiſe how he came to know him? Again, whether he "obſerved that the aforeſaid *N.* was ſuſpected of Matters relating to the "Faith from his Words, or his Actions? Likewiſe, how often he had ſeen the "ſaid *N.* do or ſay thoſe Things for which he thought him an Heretick, or "ſuſpected of Hereſy? Likewiſe, at what Time, and in the Preſence of "whom the aforeſaid *N.* did or ſaid thoſe Things of which he is denounced? "Likewiſe, whether the aforeſaid *N.* hath had any Accomplices in the afore-"ſaid Crimes, or any Writings belonging to the Offences denounced? Like-"wiſe, to what End and Purpoſe the aforeſaid Things were done or ſaid by "the aforeſaid *N.* whether ſeriouſly, or in Jeſt? If it appears that there was "a long Interval of Time between the Commiſſion of the Crimes denounced, "and the making the Denunciation, the Inquiſitor interrogates the Denoun-"cer, why he deferred ſo long to come to the holy Office, and did not depoſe "before, eſpecially if he knew, that he incurred the Penalty of Excommuni-"cation by ſuch Omiſſion." They account this Interrogatory neceſſary for two Reaſons. Firſt, becauſe the Delay of Denouncing may give a juſt Preſumption of Calumny in the Denouncer. Secondly, that it may be known, whether he hath been compelled by his Confeſſor to denounce, upon his Refuſal to abſolve him without denouncing, in which Caſe greater Credit is given to the Denouncer. "He is moreover asked, whether he knows any "Thing farther of *N.* which concerns the holy Office, or of any other Per-"ſon? Likewiſe, whether he hath at any time had any Cauſe of Hatred or "Enmity with the aforeſaid *N.* and whence it proceeded? With what Zeal, "and with what Intention he comes to the holy Office, and to make Denun-"ciation? Whether he hath denounced thro' any Paſſion of Mind, ill Will, "Hatred, or Subornation? And he is admoniſhed ingenuouſly to tell the "Truth." He is eſpecially interrogated how he came by his Knowledge, becauſe on that principally the Truth and Weight of the Teſtimony depends. From the Denunciation, and the Anſwers to theſe Interrogatories they form other Queſtions, that there may be nothing wanting in the Inquiſition. And whatſoever the Denouncer anſwers to theſe Interrogatories, the Notary writes down.

The Denunciation thus received, three Things are uſually obſerved before the Denouncer goes from Audience. Firſt, the whole Denunciation, as written down, muſt be read over to the Denouncer, that he may add, take away, or alter as he pleaſes. Secondly, the Denouncer muſt ſubſcribe to his Depoſition; or if he can't write, he muſt at leaſt put under it the Sign of the Croſs. Thirdly, the Denouncer muſt take an Oath of Secrecy. All theſe Things are exactly written down by the Notary.

If thro' Straitneſs of Time, or a late unſeaſonable Hour, or the Length of the Denouncer's Account, the whole Denunciation cannot be taken at once, the

the Depoſition muſt be broke off, and it muſt be minuted down, that the Examination was diſmiſſed thro' the Lateneſs of the Hour, and that the Denouncer was ordered to return ſoon to the holy Office. And this he muſt ſubſcribe. When he comes again to continue his Denunciation, he muſt again take his Oath before the Inquiſitor and Notary, touching the holy Scriptures, that he will ſpeak the Truth, and be admoniſhed to report what he omitted in his former Appearance, ſuch a Day of the Month in this holy Office. But if it can be done, tho' with ſome Inconvenience to the Judge, they ſay Care muſt be taken not to interrupt the Depoſitions of the Denouncers, or Witneſſes who are cited.

Sometimes the Denouncers bring with them their Denunciation written down by themſelves, which they give to the Inquiſitor. When this is done, the Inquiſitor receives it in the Place of Audience, and gives it to the Notary to inſert in the Proceſs. The Notary alſo further inſerts in the Acts, that *N.* delivered his Denunciation in Writing to the ſaid Inquiſitor, containing ſo many Leaves, beginning thus, *&c.* and ending thus, *&c.* and the Inquiſitor commands the Denouncer to ſubſcribe his Name.

When the Denouncers are not preſent themſelves, and denounce any ones Hereſy, not in Perſon, but by private Letters, ſuch a Denunciation may be alſo received by the Inquiſitor, if the Writer of the Letters be a Perſon of Credit, dwelling in remote Places, or ſick, or prevented by any legal Impediment, ſo that he cannot eaſily come himſelf to the Inquiſitor; or if he be detained upon account of any peculiar Quality, ſuch as Nuns, or other honourable Women, who muſt not eaſily be drawn by others into any publick Cauſe. But the Inquiſitors may ſupply the Defect in this manner of denouncing by this Method, either by going himſelf with the Notary to the Denouncer, and examining him in the Manner already deſcribed; or by ſending his Colleague or Vicar to him with the Denunciation Letters, concerning which he examines the Denouncer in the uſual Manner, to know whether they are his, and with what Deſign and Reaſon written. Or if the Inquiſitor hath already in ſuch Places a Vicar or Commiſſary appointed, he may write to him, and ſend him the private Letters of Denunciation, to examine the Denouncer upon Oath after the uſual Manner. As to the Denunciation made by a Nun, ſhe is obliged to denounce before her Confeſſor, who demands Leave and Faculty from the Inquiſitor to receive the Denunciation, which as ſpecially deputed he takes, firſt giving her her Oath, making her ſubſcribe, and enjoining her Secreſy. And he muſt thoroughly interrogate and ſearch her. But in this Caſe, the Confeſſor muſt receive from the Nun a Command of making Denunciation to the Inquiſitor out of Confeſſion. The Form which they obſerve in taking this Denunciation is as follows. *Such a one was diſmiſſed from her Confeſſor, who would not abſolve her, unleſs ſhe denounced to the holy Office. Upon which ſhe appeared before me* N. *eſpecially deputed by the moſt Reverend Father Inquiſitor, the Day .... Month ..... Year ..... and being given her Oath, which ſhe took touching the moſt holy Goſpels, ſhe denounced, for the exonerating her Conſcience, as ſhe declared, after the following Manner,* viz. &c.

*Cap.* 3.

*Annot. Caren. n.* 4.

CHAP.

## CHAP. IX.

### *Of the Witneſſes, and who are admitted as Witneſſes before the Tribunal of the* INQUISITION.

AFTER the Denouncer hath diſcharged his Duty by legally denouncing, he hath no farther Concern, but the whole Affair is left to the Inquiſitor to make Inquiſition concerning the Offence of the Offender, from the Witneſſes named by the Denouncer. Before therefore we proceed to the Examination of the Witneſſes, we muſt premiſe ſome Things concerning the Witneſſes themſelves, *viz.* as to their Perſon and Number.

All Perſons may be Witneſſes as well in Civil as Criminal Cauſes that are not expreſsly prohibited. In the Affair of the Inquiſition, in Favour of the Faith, all Perſons, even ſuch as are not allowed in other Tribunals, are admitted as Witneſſes, Enemies only excepted. But here they diſtinguiſh between the Accuſer or Denouncer, and the Witneſs. For although an Enemy can never be a Witneſs, he may be an Accuſer or Denouncer, and his Denunciation muſt not be neglected by the Inquiſitor, according to *Campegius*.

Campeg. *in* Zanch. c. 13. d.

" In the Crime of Hereſy any one may be an Accuſer, even an Enemy. " For as the Judge doth not condemn according to the Petition of the Accuſer, but the Proofs of the Witneſſes, there can be little Danger if an Enemy be admitted to accuſe. He adds, that he hath often found in the Exerciſe of this ſacred Office, that Enemies have made, not a falſe but true " Denunciation, which he hath known to happen by heavenly Counſel and the " juſt Judgment of God. For this blind World can't as yet underſtand the " Wickedneſs and Pravity of this Crime; and therefore we ſee that Mortals are more ready to accuſe and puniſh Thieves and Murtherers, than to " correct and condemn Hereticks. Yea, when Inquiſition is made againſt " any one for Hereſy, or he is taken up, all run together, and pray, and beſeech, excuſe, and endeavour to defend him, and ſay that they are wicked " and very vile Perſous, who would mark the poor Man for an Heretick. Beſides, they call the Officers very cruel, if they ſtrive to reduce an " Heretick to the Light of Truth, by Impriſonment, Bonds, and Fetters, " or finally by Tortures, and think they do God great Service, if they ſtrive, " tho' unjuſtly, to free him from Impriſonment and Bonds, and to deliver him " out of the Hands of the Inquiſitors. They would rather he was diſmiſſed, " as they ſay, only with holy Water. If we anſwer and put them in mind of " the Crime of High Treaſon againſt earthly Majeſty, they reply, this is " quite another Thing, that the Caſes very much differ, and the like. As " tho' 'twas a leſs Thing to offend the great God than an earthly Prince. " Theſe Things are rather to be lamented than rehearſed. Let us therefore " pray the Lord to open the Eyes of thoſe blind Perſons, and to preſerve his " holy Faith, and to defend and protect the Miniſters of this Office. For it

" happens,

" happens, as we ſaid before, thro' the Diſpoſal of God, bringing this Good " out of another's Wickedneſs, that one Man ſhall not diſcover another whom " he knew to be an Heretick, during their Friendſhip. But upon the ari- " ſing of ſome Enmity between them afterwards, he immediately goes to the " Inquiſitor, and now denounces againſt the Perſon whom he hath long known " to be an Heretick, and ſays that he doth it thro' a Zeal for the Faith, and " with a Regard to Charity, altho' poſſibly he is induced to it by the Influ- " ence of Hatred. Therefore the Inquiſitor ought diligently to attend to the " Quality of the Deponents or Denouncers, and very exactly and cautiouſly " make Inquiſition concerning the Truth of the Things atteſted and ſaid, and " well to remark the Words of the Chapter, *In Fidei favorem*, de hæret. " lib. 6. *viz.* Whether or no thoſe who thus teſtify may be preſumed not to " ſpeak Falſehood, from likely Conjectures, and the Number of the Witneſ- " ſes, or the Quality of the Perſons, as well thoſe who depoſe, as thoſe who " are depoſed againſt, and from other Circumſtances."

But 'tis quite otherwiſe as to Witneſſes themſelves, for an Enemy is not admitted as a Witneſs. Not that every ſort of Enmity prevents a Perſon from being a Witneſs, but mortal Enmity only. Thus the Council of *Biterre* determines, *Cap.* 13. and that of *Narbonne*, Cap. 25. *Such Exceptions only ſhall wholly deſtroy the Credit of the Witneſſes, which ſeem to proceed not from a Zeal for Juſtice, but from the Inſtigation of Malice*, viz. *Conſpiracies and mortal Enmities. For although other Crimes weaken, they do not ſet aſide the Evidence, eſpecially if the Witneſſes have amended their Fault.* So that, according to this Decree, ſeveral Crimes do indeed leſſen the Credit of the Evidence, but do not wholly render the Perſons incapable of being Witneſſes. In like manner every ſort of Enmity doth indeed ſomewhat weaken the Weight of the Evidence, but don't entirely overthrow it, unleſs it be mortal Enmity. Simanc. *t.* 64. §. 79, 80.

The Cauſes by which we are to judge of mortal Enmity are various, and determined by the *Spaniſh* Law. If any one hath killed, or endeavoured, or even threatned to kill the Kinſman of that Perſon againſt whom he would bear Witneſs, if he hath laid Snares for his Life, or accuſed him of a Crime, which, if proved, would be puniſhed with Death, Loſs of a Member, Baniſhment, or the Forfeiture of all, or the greateſt Part of his Eſtate. To theſe *Pegna* adds ſome other Things, which, however, are not determined by that Law, *viz.* if any one depoſes againſt him in a criminal Cauſe; or if the Party accuſed hath at any time put his Accuſer in Chains; or even if he hath ſpoken very reproachfully of him, *viz.* if he hath called him Cuckold, or his Wife a Whore; or called a ſober Man a Drunkard, *&c.* In theſe Caſes, however, he ſays the Circumſtances of the Perſons, reproaching each other, ſhould be conſidered; as whether they are vile and infamous Perſons, who have little Regard to their Honour, and are given to reproachful Language, and ſo eaſily forget what they ſay; or whether they are noble, and well born: Beſides this, the Cuſtom of the Provinces and Cities are alſo to be regarded. Farther, he ſays that mortal Enmity may ariſe from one Man's Pegn. *in p.* 3. *com.* 116. *Ibid.*

keeping another's Wife, contrary to his Conſent and Demand, or his Siſter, or any other Women related to him, the very Attempt upon whoſe Chaſtity is an Injury to him. Or if any one goes to Law with another concerning his Condition, to prove him only a Freedman, not Free-born, or about his Eſtate, or greateſt Part of it, or for a large Sum of Money, or for robbing him of, or deſtroying a Thing of great Value, or when any one injures another in his Perſon or Effects. Farther, he cannot be a Witneſs, if having been an Enemy a long while he is newly reconciled, or who deſcends from a mortal Enemy; nor one who lives with another's Enemies, or contracts Friendſhip with them. Finally, nor they who are of a Family or Faction contrary to another Family or Faction. However, if the Witneſſes are Perſons of tried Virtue and Probity, they would not be liable to ſuch a bad Suſpicion. This Suſpicion alſo ceaſes, when the Enmity is procured by Fraud and Deceit, and with this View, to prevent any one's being a Witneſs; or when there hath been a long and well-grounded Reconciliation between the Perſons who were Enemies, as to which, 'tis left to the Pleaſure of the Judge to determine. And becauſe the Names of the Witneſſes are not diſcovered to the Perſon accuſed, as ſhall be fully ſhewn hereafter, becauſe of the Danger that might accrue to them, the Inquiſitors are ordered to enquire concerning the Enmity of the Witneſſes, and to ſearch out if there are any Cauſes, from which it may be probably gathered that there is mortal Enmity between the Criminal and them, the whole of which is left to the Prudence and Pleaſure of the Inquiſitor. But if an Enemy be reconciled, he may be a Witneſs, provided the Reconciliation be not new, but of long ſtanding. Whether it be one or the other, the Inquiſitor is to determine.

Lucern *Inq. in voc.* Teſtes. §. 5.

Here they enquire, whether Credit is to be given to a Witneſs, who ſays he is the Enemy of that Perſon againſt whom he is interrogated? And they uſually anſwer with this Diſtinction. Either the Witneſs ſays he is his Enemy before he ſwore, or was produced as a Witneſs; and thus he is preſumed to have ſaid it fraudulently, and muſt therefore be received; but if it doth not appear that he ſaid it fraudulently, he muſt not be received, eſpecially if it be mortal Enmity. But if it be not, or there be any Doubt about it, the Judge muſt not deſiſt for the bear Affirmation of ſuch Witneſs, but muſt enquire into the Nature of the Enmity, becauſe, as was ſaid before, every ſort of Enmity doth not diſable a Perſon to be a Witneſs. But if he declares himſelf a mortal Enemy, he muſt not be received. But if the Enmity is not mortal, he muſt be allowed, and the Judge muſt determine what Credit is to be given to him. Or he declares himſelf an Enemy after he is ſworn, but before he depoſes, and then he is not to be credited; or after he hath ſworn and made Depoſition; and if he declares himſelf an Enemy immediately after he hath finiſhed his Depoſition, he is credited as to the general Interrogatories; but if he declares himſelf an Enemy ſome Diſtance of Time after, he is not regarded, but his former Depoſition muſt be abided by.

Pegna *in* Ip. 3. *com.* 113.

But except theſe mortal Enmities, almoſt all kind of Perſons may be admitted as Witneſſes by the Inquiſitor. Firſt, Perſons excommunicated, and

guilty

guilty of the ſame Crime, Cap. *In Fidei favorem*, de hæret. lib. 6. *We grant in Favour of the Faith, that in the Affair of the Inquiſition of heretical Pravity, Perſons excommunicated, and Partakers, and Perſons guilty of the ſame Crime, ſhall be admitted to bear Witneſs, eſpecially when there is a Deficiency of other Proofs againſt Hereticks, their Believers, Favourers, Receivers, and Defenders, if it may be preſumed from probable Conjectures, and the Number of Witneſſes, or Quality of the Perſons, as well thoſe who depoſe, as thoſe who are depoſed againſt, that ſuch Witneſſes do not ſpeak falſely.* In this the Council of *Biterre* agrees, Cap. 12. *Altho' in this Crime all Criminals and infamous Perſons, and thoſe who are Partakers of their Guilt, may be admitted as Accuſers and Witneſſes.* The Decree of *Alexander* IV. is to the ſame Purpoſe, *An.* 1261. *Feb.* 1. beginning, *Conſuluit nos.*

Next to Perſons excommunicated are joined Hereticks, *Jews*, and Infidels, who, in the Crime of Hereſy, are admitted as Witneſſes againſt Hereticks. But becauſe 'tis provided by the Laws, that Hereticks ſhall not be admitted as Witneſſes, an Heretick is not allowed as a Witneſs for one of the Faithful. But if an Heretick, whether in Priſon or elſewhere, charges one of the Faithful, or one who is eſteemed as ſuch, with the Crime of Hereſy, or as a Partaker of his Crime, tho' this doth not amount to half Proof, ſo as to occaſion his being apprehended, yet it is Diſcovery enough to proceed to a ſecret Inquiſition againſt him. But, as was ſaid, the Teſtimony of an Heretick againſt an Heretick, is admitted, but not for an Heretick. They affirm the ſame of a *Jew* and an Infidel, who, when they are admitted as Witneſſes, muſt not ſwear upon the Goſpels as Chriſtians do, but according to their own Laws. Pegna, *ib. com.* 117.

In like manner the Teſtimony of a Wife, Sons and Daughters, or Domeſticks, againſt Perſons accuſed of Hereſy, is allowed, but by no Means in their Favour and Behalf. C. *Filii*, de hæret. lib. 6. The Reaſon *Simancas* gives, why Kindred are admitted as Witneſſes againſt Kindred, is, becauſe they can't poſſibly be ſuſpected. Yea, ſome add, that when other Proofs are wanting, the Judge may compel not only a Brother, but even a Wife, or Son, to witneſs againſt a Father. Servants alſo may be tortured againſt their Maſters. *Tit.* 64. §. 47. Carena, *p.* 3. *t.* 5. *n.* 21.

Even perjured Perſons, who having taken an Oath before the Inquiſitors to ſpeak the Truth, have forſworn themſelves by concealing it, and would afterwards correct themſelves, and ſwear back again againſt themſelves and others, are to be admitted, if it plainly appears that they act not from Levity of Mind, nor the Inſtigation of Enmity, nor from being corrupted by Money, but from their Zeal for the Orthodox Faith, and that on this Account they would diſcover in Favour of the Faith what they had concealed before, according as *Alexander* IV. hath decreed, and as may be found in the VI. of the Decretals. And altho' perjured Perſons are not allowed as Witneſſes even after Repentance, yet 'tis quite different in a Cauſe of the Faith; and the Doctors obſerve, that ſuch a one's ſecond Depoſition muſt be ſtood to, when hereby he diſcovers the Crime of Hereſy. But if when he takes his ſecond Oath, he denies what he depoſed concerning Hereſy when he took his firſt, the firſt Depoſition muſt be ſtood to, and not

the ſecond; for which they give this Reaſon, becauſe he may have ſpoken with the Criminal, and ſo is preſumed to be corrupted and ſuborned, and therefore his firſt Depoſition ſtands firm.

Carena, *p.* 3. *t.* 5. §. 12.

Farther, infamous Perſons may be admitted as Witneſſes in this Tribunal, ſuch as Whores and Bawds, when they teſtify of Things done in the Bawdy-Houſe. Such alſo as are under the Ban, whom the Inquiſitors may cite before their Tribunal, and grant a ſafe Conduct, that they may be examined as Witneſſes in the Tribunal of the Inquiſition, altho' the ſecular Prince hath put them under the Ban, becauſe the Inquiſitor is greater than any ſupream, ſecular Judge, and may proceed in Cauſes of the Faith freely, and without any Impediment whatſoever of Law or Fact. Uſurers alſo, Baſtards, common Blaſphemers, common Gameſters, Perſons quite drunk, and not only exhilarated by Wine, Stage-Players, and Prize Fighters, Apoſtates from Religion, Perſons baſtinadoed, Bankrupts, Traitors, Backbiters and Spendthrifts. But they add, that theſe are not Witneſſes above all Exception, and that they amount only to half Proof; that they may be admitted to prove Hereſy, and the ſubſtantial Circumſtances that prove it, ſuch as Familiarity with Hereticks, ſecret Conventicles, and the like, but not the external Circumſtances neceſſary to it, Baptiſm for Inſtance, which is pre-requiſite in the Caſe of Hereſy. Beſides the Number of Witneſſes may make good their Incapacity, though every one ſingly ſhould be incapable of being a Witneſs, yea if the Number be large, 'tis ſufficient to inflict the ordinary Puniſhment. This Number they fix, and ſay that four are ſufficient to condemn the Criminal to the ordinary Puniſhment. Others leave it to the Inquiſitor to determine the Number.

Lucern. *Inq. in voce* Teſtes. §. 12.

Here 'tis to be obſerved, that a Witneſs, whatſoever he is, ſaying one Thing out of the Trial, is not allowed to ſay the contrary in the Trial, ſo that they ſtand to what he firſt ſays, unleſs 'tis to be preſumed that he ſpoke fraudulently. As if a Witneſs of mean Fortune ſhould ſay in the Preſence of ſome great Perſon ſomewhat in his Favour, and afterwards ſhould ſay upon Oath the contrary, what he firſt ſays muſt not ſtand good, becauſe 'tis preſumed he ſaid it to pleaſe the Party, but what he afterwards ſays at the Trial muſt be allowed, becauſe 'tis ſuppoſed he ſpeaks Truth through Fear of his Oath. 'Tis otherwiſe where there is no ſuch Preſumption.

CHAP.

## CHAP. X.

### *Of the Number of the* WITNESSES.

AS to the Number of the Witneſſes, 'tis generally believed that two Witneſſes are ſufficient fully to prove Hereſy, and to condemn any one for Hereſy. But 'tis neceſſary they ſhould be worthy of Credit, and, as they ſay, above all Exception. Hence it is, that tho' excommunicated Perſons, and thoſe guilty of the ſame Crimes, are not abſolutely rejected from being Witneſſes againſt Hereticks, their Defenders, Receivers, and all other ſuſpected Perſons, yet full Credit is not to be given to them, unleſs it appears that they ſpeak Truth, from probable Conjectures, the Number and Quality of the Perſons, and other Circumſtances. C. *In Fidei favorem*, de hæret. lib. 6. Eymer. p. 3. *qu.* 71. *com.* 120. Simanc. *tit.* 64. §. 36.

The Informer or Denouncer is now alſo reckoned amongſt the Witneſſes. For altho' no Man can be Accuſer and Witneſs in the ſame Cauſe, yet he who diſcovers an Heretick to the Judges is a legal Witneſs. For, as they ſay, ſuch a Witneſs is not influenced by any private Advantage, but by a Zeal for the moſt holy Religion, and for the publick Benefit of the Catholick Church, and with a View to the Amendment of the Heretick. Nor can he have any private Intereſt to diſcover an Heretick, but only as being of the Number of the Chriſtian People, in which Caſe they affirm the Teſtimony of the Informer to be compleat. Simanc. t. 19. §. 17. &. t. 64. §. 55.

Several ſingle and entirely different Witneſſes have no more Weight than one Witneſs. §. 63.

There are ſome who ſay that a Man may be proved to be an Heretick by ſingle Witneſſes, as if one ſhould witneſs againſt him for one Hereſy, another for another, and others likewiſe for other Hereſies. In ſuch a Caſe they aſſert it will be proved in general, that the Man is an Heretick. But as particular Hereſy can't be proved by ſingle and ſeparate Witneſſes, ſo neither can it be proved that any one is an Heretick in general by the ſame Witneſſes; for by the ſame way it might be proved that a Man was a Catamite in general, upon which Occaſion *Simancas* gives us a pleaſant Story. A certain Perſon, a Year ago, cried out, and ſaid, it was proved in general by ſingle Witneſſes, that ſuch a one was a Catamite. I remember, ſays he, I anſwered, if this wicked Crime is proved in general, let the Puniſhment likewiſe be inflicted in general. Let the Individual be ſafe, and, if you pleaſe, let the Catamite in general be burnt. §. 68. §. 70. §. 73.

Yet there are two Caſes, in which Hereſy may be proved by ſingle Witneſſes. The firſt is, when the Witneſſes teſtify of the ſame Species of Hereſy, but are different as to the Place and Time. For they agree in the Proof of the ſame Hereſy, whereas the Place and Time are quite foreign Things, and are not neceſſary Circumſtances to the Proof of Hereſy. The ſecond is, §. 75. §. 77.

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when ſingle Witneſſes aim at the ſame End, are many in Number, and worthy of Credit.

*Direct. part. 3. q. 71. com. 120.* But *Pegna* ſays, if there are many ſingle Witneſſes, and one depoſes as to the Fact, another as to the common Fame, one as to what he ſaw, another as to what he heard, the Criminal cannot be condemned, no not altho' the common Fame, legally proved, ſtrengthens the Teſtimony of the ſingle Witneſs. However, the Inquiſitor may at Pleaſure enjoin ſuch Criminals Purgation, or any other Penance. If ſeveral Witneſſes teſtify ſeparately of different Hereſies, and a different Time and Place, this will not prove a Man an Heretick; no, nor is it full Proof if they teſtify of the ſame Hereſy, but differ as to Time and Place. But if any one is convicted by more than two proper Witneſſes, and will not confeſs, ſome ſay they muſt wait for ſome time, and ſee if they can find out Witneſſes agreeing in all Things; but firſt the Criminal is to be tortured, that if it can be they may draw the Truth from his Mouth. If he confeſſes nothing he may be moſt juſtly compelled to abjure as one vehemently ſuſpected, or to undergo canonical Purgation, becauſe, in this Caſe, he cannot be thought to have purged away the Evidence by Torture, ſince the Proofs againſt him are many and ſtrong.

*Part. 3. com. 121.* However, in ſuch a Caſe, 'tis left to the Inquiſitors Pleaſure to proceed as they think fit, as 'tis expreſsly commanded in the Conſtitutions of the Biſhop of *Albano*, Legate of the Apoſtolick See, who, 'tis probable, was appointed Legate, and publiſhed by the Pope's Commiſſion many Conſtitutions, relating to the Puniſhment of Hereticks, and the Order of proceeding againſt them, about the Time when the poor Men of *Lions*, or the *Albigenſes* and other Hereticks infeſted the Countries of *France* and *Lombardy*. Theſe Conſtitutions are very uſeful to private Inquiſitors, to enable them to determine rightly and profitably Cauſes and Controverſies of the Faith, and are extant in an old Parchment Manuſcript in the *Vatican* Library, and in a very old one at *Florence*. Amongſt other Things in it 'tis thus determined. *But when the Witneſſes or Informers differ in what they depoſe, but yet agree in the Subſtance and Nature of the Thing, we leave it to the Pleaſure of the Inquiſitors ſo to proceed, as, in the Sight of God, they ſhall think fit, eſpecially if common Fame, and the Fitneſs and Credit of the Depoſers agree and make againſt him, who is to undergo the Inquiſition.*

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## CHAP. XI.

### *Of the Examination of the* WITNESSES.

Pegna, *Prax. Inq. l. 2. c. 5.* AFter having thus ſpoken of the Witneſſes themſelves, I now come to their Examination. When therefore the Witneſſes named by the Informer are found out, the Inquiſitor orders them to be cited by his ſpiritual Meſſenger,

Meſſenger, to the Office of the Inquiſition, where, when they come, they are legally examined. Firſt, they take an Oath upon the Scriptures to ſpeak the Truth. After this he is asked by the Inquiſitor, whether he knows, or can gueſs the Cauſe of his Citation and preſent Examination? If he ſays yes, he is interrogated how he knew it? If he ſays no, he is interrogated, whether he hath known, or doth now know any one or more Hereticks, or Perſons ſuſpected of Hereſy, or at leaſt is able to name any ſuch? Whether he knows *N?* What was the Occaſion of his Acquaintance with him? How long he hath known him? Whether he hath been uſed to converſe with him? Whether he hath heard at any time any Thing from the ſaid *N.* concerning the Catholick Religion? Whether ever he was in ſuch a Place with the ſaid *N.* and whether the ſaid *N.* did or ſaid there ſuch and ſuch heretical Things, or favouring of Hereſy? Who were preſent when *N.* did or ſaid the aforeſaid Things? How often he ſaw them ſaid or done, and on what Occaſion, and how? Whether the ſaid *N.* ſpoke the aforeſaid Things in Jeſt, or without thinking, or thro' a Slip of his Tongue, or as relating the Hereſies of ſome other Perſon or Perſons? Whether he ſaid any Thing which ought not to have been ſaid thro' Hatred or Love, or omitted and concealed ſomewhat that ought to have been explained? He is farther admoniſhed to tell the ſingle Truth, becauſe, if he is detected of ſpeaking falſely, he will be made to ſuffer the Penalties, not only of Perjury, but of favouring Hereſy, and that therefore he ought to tell the Truth, and beware of Lies. Becauſe, if it appears to the holy Office, by Witneſſes worthy of Credit, that the Witneſs himſelf is conſcious to the Things concerning which he is interrogated, and conceals and hides them, he may be confined, and compelled to give Security, and to oblige himſelf not to depart from that City and Place where he is examined, and under a Penalty, fixed by the Inquiſitor, to make his Appearance as often as and whereſoever the Inquiſitor ſhall command him. When the Truth cannot be found out from the Mouth of the Witneſs and theſe general Interrogatories, the *Italian* Inquiſitors come to particular Interrogatories concerning the Place and Perſon denounced, that ſo the Truth may be diſcovered, after which the Witneſs is diſmiſſed, being firſt injoined Secrecy upon Oath, and ſigning what he hath ſaid. All theſe Things are taken down by a Notary, and inſerted into the Acts of the Proceſs. *Simancas* gives a ſhort Account of this Matter, *Tit.* 44. §. 11. Carena, *Annot. Ibid.*

" When the Witneſſes come to the Inquiſitors, to teſtify againſt Here-
" ticks or ſuſpected Perſons, they are to be exhorted and admoniſhed, that
" they don't dare to give falſe Witneſs thro' Hatred, Enmity, or other evil
" Affection. And beſides, it muſt be declared to them, how heinous a
" Wickedneſs all falſe Witneſſes commit, but eſpecially thoſe who defame
" innocent Perſons with the Crime of Hereſy. But if they affirm that they
" are moved only by a Zeal for the Catholick Faith, their Teſtimonies are
" to be written down."

'Tis the Cuſtom in ſome Inquiſitions, that before the Criminal is apprehended, the Witneſſes named by the Denouncer ſhould, after two or three Days,

Days, be cited again, and interrogated upon Oath, laying their Hand on the Scriptures, whether they have any farther Truth to communicate beſides what they depoſed in their former Examination. And whatſoever is the Anſwer, the Notary takes it from his Mouth.

If there be Reaſon to apprehend from the Circumſtances of the Witneſs, that he will diſcover the Cauſe, he is enjoined Silence, under the Penalty of Excommunication, *latæ ſententiæ*, after a ſingle Admonition, and other Penalties, at the Pleaſure of the holy Office. Sometimes alſo, for juſt Reaſons, they take Care and command the Witneſs or Witneſſes not to depart from the Palace or Houſe of the Inquiſitor, without the expreſs Leave of the Inquiſitor, written under his Hand.

After the ſame Manner all other Witneſſes named by the Informer in his Information, are examined.

But if the Informer be alſo a Partaker and Partner in the Crime, and when informing againſt his heretical Companions, depoſes nothing againſt himſelf, and any Thing appears againſt him from the Examination of the Witneſſes or Accomplices, he is cited by the Inquiſitor, and proceeded againſt as a Criminal, but puniſhed in a milder Manner, becauſe of his having informed againſt others.

Eymer. p. 3. In the Examination of Witneſſes, in many Places, there muſt be five Perſons preſent. The firſt is the Judge, *i. e.* the Inquiſitor or his Commiſſary, whoſe Buſineſs is to examine the Witneſſes and Perſons accuſed, by forming Articles and Interrogatories upon them. The ſecond is the Witneſs. Every one of theſe muſt firſt ſwear to ſpeak the Truth, otherwiſe their Depoſition will be invalid, according to the Precept of the Council of *Biterre*, Cap. 4. *Give to all thoſe, who being cited before you, appear within the Time aſſigned them, their Oath, to tell the entire and whole Truth concerning the Fact of heretical Pravity, which they know of themſelves, or of others, living or dead.* The Form of the Oath is commonly this: *I ſwear by God and the Croſs, and the four moſt holy Goſpels, now touched with my Hands, that I will ſpeak the Truth. If I do, ſo help me God; if I do not, ſo God condemn me.* The third Perſon is the Writer, who writes down the Interrogatories of the Inquiſitor, and the Anſwers of the Perſon accuſed, and the Witneſs. He muſt be a publick Perſon, *viz.* a Notary that hath Authority, either a Layman or Clergyman, or a Religious. But when the Inquiſitor cannot have ſuch a publick Perſon, or Notary, he may chuſe two proper Perſons, Secular, or Eccleſiaſtical, who jointly have the Power and Authority of one publick Perſon, and theſe two act by the Apoſtolick Authority in Writing. The fourth and fifth Perſons are two who aſſiſt the Inquiſitor, and are Witneſſes to the whole Examination, and they muſt be two diſcreet Men, religious, or otherwiſe reputable. But when the Inquiſitor cannot conveniently have theſe two Perſons preſent at the whole Examination of the Witneſs or Perſon informed againſt, he muſt, at leaſt, have them at the End of the Depoſition, when the Depoſition is read over by the Notary to the Witneſs that depoſes, or the Informer, in the Preſence of the Inquiſitor, and the two aforeſaid diſcreet Perſons, and then the Witneſs is asked if he ſtands

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to and perſeveres in that Depoſition. If he doth, 'tis written in the Acts, how that in the Preſence of ſuch Perſons the Depoſition was read to him, and he ſtood to it, and perſevered in it. And this *Eymerick* thinks is ſufficient. But as *Pegna* tells us, *Comment.* 112. the Proceſſes are now carried on in the holy Tribunal generally without the Preſence or Intervention of theſe Perſons, and the ſupream Senate of the *Roman* and general Inquiſition allows the Proceſſes thus formed. And indeed theſe two Perſons are of no Uſe. The Pretence for their being preſent is, that there may be no Suſpicion of foul Play, when the Things tranſacted are ſeen by ſo many Eyes, and open to ſo many Senſes; and that they may know the Witneſſes in the Stead of the abſent Criminal, as *Simancas* declares, *tit.* 64. §. 8. & 21. But how doth it make any thing to the Defence of the Criminal, that his Accuſers are known to Perſons that he himſelf knows nothing of, and who are forbidden to diſcover any Thing to him?

The Witneſſes muſt be examined by the Inquiſitors themſelves, nor muſt their Examination be committed by any Means to any one elſe, unleſs the Witneſſes are juſtly hindred, and the Judges cannot eaſily go to them, or ought not. In this Caſe the Inquiſitors may commit the Examination of the Witneſſes to the Biſhop's Vicar, or other Eccleſiaſtical Judge, or to ſome skilful and prudent Man, who, with a Notary or Secretary to write down the Depoſitions in the Cauſe, muſt diligently examine the Witneſſes, and ſend the Manner and Conſtancy, and other Circumſtances of the Witneſſes and their Depoſitions to the Inquiſitors. 1 *Inſtruct. Hiſpal. cap.* 17. and 4 *Inſtruct. Tolet. c.* 14. Simanc. *tit.* 68. §. 11.

## CHAP. XII.

### *How the* CRIMINALS, *when informed againſt, are ſent to Jayl.*

WHEN the skilful Men or Counſellors are called together to give proper Advice, either as to the Quality of the Propoſitions, or the Weight of the Proofs and Diſcoveries, or as to the Proceſs or giving Sentence, or any doubtful Article of the Cauſe, that nothing may appear in the whole Affair but a burning and ſerious Zeal for the divine Glory, they make ſolemn Prayers to the Holy Ghoſt, which are uſually ſaid over in all the Congregations. The Inquiſitor and Counſellors ſay them on their bended Knees. The Form is this: Pegna, *prax. Inq.* l. 2. c. 9.

*We are here preſent, O God, the Holy Ghoſt, we are here detained with the Greatneſs of Sin, but gathered together ſpecially in thy Name. Come to us, be preſent with us, vouchſafe to enter into our Hearts, teach us what we ſhould do, where we ſhould walk, and ſhew us what we ought to perform, that we may be able to pleaſe thee, aſſiſting us in all Things. Be thou the Health, the Suggeſtor and Maker of our*

*Judgments, who alone with God the Father and his Son, poſſeſſeſt a glorious Name. Suffer us not to be Perverters of Juſtice, O thou who loveſt the ſtricteſt Equity. Let not Ignorance draw us to the left, let not Favour bend us, nor Regard to Office or Perſon corrupt us, but join us to thy ſelf effectually by the Gift of thy only Grace, that we may be one in thee, and in nothing deviate from the Truth; and as we are gathered together in thy Name, ſo let us in all Things preſerve Juſtice moderated by Piety, that our Sentence here may in nothing differ from thee, and that hereafter we may obtain everlaſting Rewards for our good Deeds.* When the Prayer is ended, all anſwer *Amen.*

This Prayer, in the Time of *Carena*, was recited in the Inquiſition at *Cremona*, by Cardinal *Camporeus*, Biſhop of that City, the Inquiſitor on his right Hand at a Corner of the Table, and the Vicar General at his left at another Corner, and the other Counſellors in their Order, all on their Knees. But if a ſingle Biſhop only is preſent, then the Biſhop and Inquiſitor ſit at the Head of the Table, their Seats being equal, in all the Inquiſitions in *Italy*. But the Biſhop ſits by Virtue of his Epiſcopal Dignity in the Seat placed on the right Hand, and the Inquiſitor in the other.

Pegna, *ibid. c. 7.* Theſe Prayers being over, the Inquiſitor conſults whether the Cogniſance of the Crimes which are denounced and proved by the Witneſſes, belongs to the holy Office. If there be any Doubt of this, he muſt call in the Qualificator Divines, who muſt give their Opinion written and ſubſcribed with their own Hand, that it may be inſerted in the Proceſs, as the Foundation of the Juriſdiction of the Inquiſitor. If the Crimes are ſmall, or the Propoſitions only ſounding ill, ſcandalous or blaſphemous, or which do not include formal Hereſy, no one upon account of theſe is immediately ordered to ſecret Impriſonment, but muſt rather be confined in ſome Monaſtery, or in his own Houſe, or City. If theſe Things were omitted, the Inquiſitors might poſſibly uſurp to themſelves Cauſes belonging to other Tribunals. Thus *Carena* relates, that on the firſt of *Auguſt*, *Anno* 1630. two *Portugueſe* Women at *Placentia* received the Euchariſt twice; and being interrogated why they did it, they anſwered, becauſe they apprehended, that as often as they communicated, they obtained the Jubilee of a Part, as they call it. On this they were kept in the Priſons of the Inquiſition, and their Effects ſequeſtred. But when the Lords Inquiſitors found that the Cauſe did not belong to the Tribunal of the Faith, they diſmiſſed them from Jayl, and cauſed their Effects to be reſtored to them. This Conſultation with the Counſellors is recommended by the *Madrid* Inſtruction, *An.* 1561. cap. 3. *When the Inquiſitors have ſeen the Information together, if they are preſent, let them conſult as to the taking them up, which would appear more juſt if done with the Advice of the Counſellors of the Inquiſition, if it conveniently can be, and it appears to the Inquiſitors convenient and neceſſary; and whatſoever is determined, let it be inſerted in the Acts.*

*Annot. ad. cap. 7.*

Carena, *lib. 3. tit. 2. §. 6.* No one can be taken up without half full Proof at leaſt, or ſuch Evidence as is ſufficient to put to the Torture, becauſe the Impriſonment made by the Inquiſitors always renders the Priſoners infamous. But if the Perſon be otherwiſe ſuſpected, for Inſtance, if he be of the *Mooriſh* Race, and hath been denounced

denounced before the Inquiſitors, upon account of ſome Ceremonies of that Nation, he may poſſibly be impriſoned upon the Affirmation of one Witneſs, even tho' liable to ſome Exception, according to *Carena*, becauſe the Preſumption ariſing from his Birth, joined to the Depoſition of ſuch a Witneſs, would amount to an half Proof. And he gives an Inſtance, that in the ſupream Council of the *Spaniſh* Inquiſition, two Men were taken up for Hereſy, at the Information of one Woman, under eighteen Years old, becauſe they were both of *Mooriſh* Extract, and becauſe the Ceremonies witneſſed to by the Woman were *Mahometan*. And thus the Preſumption was againſt them, becauſe they were of that Race. *Zanchinus* enumerates more particularly ſeveral Cauſes for which Perſons may be impriſoned. Zanch. c. 10. §. 1.

"If Inquiſition be made againſt any one, he is impriſoned, if, tho' the Crime "be ſo ſmall as that Bail may be taken for it, he doth not give the neceſſary "Bail. Or if Inquiſition be made againſt him for ſome deteſtable and grie-"vous Crime, and there are Proofs againſt him, or if he himſelf hath confeſſed "ſuch a Crime as renders him liable to the Puniſhment of an Heretick."

The Conſultations which are held on theſe Affairs, are uſually called Deliberations concerning the Citation of the Criminal, and this Citation is verbal or real. Verbal Citation is that which is made by Letters or a Meſſenger, which is uſed when the Queſtion is about a leſſer Crime, or if the Criminal be but ſlightly ſuſpected. For if it be an heinous Crime, and fully proved, there is need of a real Citation, that the Criminal may not eſcape. This verbal Citation muſt not contain in it the Cauſe for which the Criminal is cited, and therefore 'tis not neceſſary to inſert in it the Place, Time, or Offence, but he is commanded in general to come before the Inquiſitors, becauſe they want to know of him certain Matters. Clement. §. *de hæret.* But this Method of Citation is not to be frequently uſed, according to the *Toledo* Inſtruction 4. *An.* 1561. becauſe if ſuch a one be examined, 'tis often found, that being free, and in Poſſeſſion of his Liberty, he will not eaſily confeſs himſelf to be a Criminal. And ſuch Citations and Examinations do rather tend to warn the denounced Criminals to take Care of themſelves, and conceal their Crime, than to produce any other good Effect. They therefore think it ſafer to wait, till new Proofs and ſufficient Diſcoveries ariſe. In the mean while they employ a careful Spy, one friendly and faithful to the holy Office, to conſider and ſearch into ſuch a one's Life, Manners, and Converſation. Simanc. *tit.* 44. §. 12.

A real Citation, or the actual apprehending any one, is uſually decreed after this twofold Manner. In ſome Inquiſitions, that the Proſecution may appear to be according to Juriſdiction, as comprehending in it the Accuſer, Criminal and Judge, the Procurator Fiſcal, who is acquainted with every Thing in the Proceſs that lies againſt the denounced Criminal, exhibits an Inſtrument, demanding that the denounced Criminal may be taken up, and duly puniſhed, and in that Inſtrument he inſerts and exhibits the Depoſitions againſt him, and the Qualification of the Propoſitions, that it may appear that he may legally be apprehended. This Demand of the Fiſcal is uſually inſerted in the Proceſs of the Perſon to be taken up. But in other Inquiſitions 'tis uſual for the Inquiſitors,

quiſitors, after conſidering the Acts, to conſult about apprehending the Perſon, without any Inſtance of the Fiſcal, and to command what they reſolve on to be put in Execution. And this Decree for the Apprehenſion is alſo uſually inſerted in the Proceſs, with the Day, Month and Year. But if the Party accuſed be ſome illuſtrious Perſon, or in any Poſt of great Authority, the Senate of the *Spaniſh* Inquiſition muſt be conſulted before he is to be apprehended, to whom that their Deliberations may be right, they muſt ſend a Summary of the Proofs, and the Information of the Crimes. This is gathered from the *Madrid* Inſtruction, An. 1561. cap. 5. *If the Inquiſitors agree as to the Apprehenſion, let them command what they have decreed to be executed. But if it be a Matter of great Moment, by reaſon of the Quality of the Perſons, or for other Cauſes, let them firſt conſult the Senate before they put their Decree in Execution. But if they don't agree in their Judgments, let the Matter be referred to the Senate, that they may conſider what is proper to be done.* But this very great and exquiſite Caution muſt not be obſerved, when there is any Fear of the Eſcape of the Perſon accuſed, or if he is a manifeſt Heretick. For in ſuch Caſe they think it would be imprudent and dangerous to wait for the Anſwer of a Superior.

Pegna, *Com.* 107. *in* 3 *Part. Direct. Inq.*

After 'tis determined that the Criminal ſhall be ſent to Jayl, the Inquiſitor ſubſcribes an Order for his Apprehenſion, and gives it to the Executor, who is to take up the Criminal. The Form of the Order is this: *By Command of the Reverend Father* N. *an Inquiſitor of heretical Pravity, let* N. *be apprehended and committed to the Priſons of the holy Office, and not be releaſed but by the expreſs Order of the ſaid Lord Inquiſitor.* If ſeveral Criminals are to be taken up at the ſame time, a ſeparate Order for each Perſon muſt be given to the Executor, that if it ſhould be neceſſary to acquaint any Perſon, who is not one of the Miniſters or Officials of the holy Office, with the apprehending of one or another Criminal, he may know nothing of the taking up of the reſt. This Order muſt be inſerted in the Criminals Proceſs by the Notary, in the very Words in which 'tis given to the Executor. If the Inquiſitors have an armed Attendance of their own, they give this Order to their own Executor. If they have not ſuch an armed Attendance, but find it neceſſary to call in the Help of the ſecular Judge, the Inquiſitor muſt take Care, that ſuch Orders be given to a truſty Executor, and who knows how faithfully to keep the Secret he is intruſted with, becauſe, if the Perſon to be apprehended ſhould receive any private Information, he would eaſily eſcape.

In a City, where any noble Perſons, Doctors, or Religious, or others of illuſtrious Birth or Dignity are to be ſent to Jayl, the Commiſſary of the Inquiſition, or ſome other Officer, uſually goes to the Houſes of ſuch Perſons, and takes them in a Coach and carries them to Jayl. But if there is no Fear of their Eſcape, they are commanded to come to the holy Office by a ſpecial Meſſenger.

When the Criminal is apprehended, he muſt be well guarded, and if there be Need, put in Irons, and thus carried by the Executor to the Jayls of the Inquiſition, and delivered into the Hands of the Jayl-Keeper. The Keeper muſt

muſt take him into his Cuſtody, and uſe him according to the Laws made about Priſoners. If any one is to be brought from very diſtant Places, they don't think it ſafe for him to lodge in Inns, or private Houſes, becauſe by this Means he might eaſily make his Eſcape; and therefore the Executor is uſually charged, to go to the Biſhops of the Place, if there be any, or to the ſecular Judges, that the Criminal may be placed and kept in their Jayls. And this the Inquiſitor ſignifies by his Letters given to the Executor to the Magiſtrates, through whoſe Territories the Criminal is to be carried, and exhorts them to give the neceſſary and convenient Aſſiſtance to the Executor. And that no one may dare to oppoſe him, and that the Criminal may be kept in ſure and ſafe Cuſtody, they deſire he may be attended with a proper Guard. But this Caution is not neceſſary in the Cities of *Spain*. For as ſoon as ever the Executor ſhews, that he is to apprehend any one by Command of the holy Office, no one dares oppoſe him. And if any one ſhould, the Mob would immediately run together to lend an helping Hand to the holy Office, and ſo over-power him, that unleſs he would undergo the ſevereſt Treatment, he would, of his own Accord, offer himſelf to be taken up by the Executor. All theſe Things are largely ſettled by the *Toledo* Inſtruction, *An.* 1561. *Cap.* 10, 12, & 13.

## CHAP. XIII.

### *Of the Examination of the* PRISONERS.

WHEN the Criminal is put in Jayl, he is brought before the Inquiſitor. The Place where he appears before the Inquiſitor, is called by the *Portugueze* the Table of the holy Office. At the farther End of it there is placed a Crucifix, raiſed up almoſt as high as the Cieling. In the Middle of the Room there is a Table. At that End which is neareſt the Crucifix ſits the Secretary or Notary of the Inquiſition. The Criminal is brought in by the Beadle, with his Head, Arms and Feet naked, and is followed by one of the Keepers. When they come to the Chamber of Audience, the Beadle enters firſt, makes a profound Reverence before the Inquiſitor, and then withdraws. After this the Criminal enters alone, who is ordered to ſit down on a Bench at the other End of the Table over againſt the Secretary. The Inquiſitor ſits on his right Hand. On the Table near the Criminal lies a Miſſal, or Book of the Goſpels, and he is ordered to lay his Hand on one of them, and to ſwear that he will declare the Truth, and keep Secrecy.

*Inquiſ. de Goa. cap.* 8. *c.* 18.

After taking this Oath of declaring the Truth both of himſelf and others, the Inquiſitor interrogates him of divers Matters. As, whether he knows why he was taken up, or hath been informed of it by any one or more Perſons? Where, when, and how he was apprehended? If he ſays that he knows nothing of it, he is asked, whether he can't gueſs at the Reaſon? Whether he knows.

Pegna, *Prax. Inq. l.* 2. *c.* 14.

knows in what Priſons he is detained? and upon what Account Men are impriſoned there? If he ſays he can't gueſs at the Cauſe of his Impriſonment, but knows that he is in the Priſons of the holy Office, where Hereticks and Perſons ſuſpected of Hereſy are confined, he is told, that ſince he knows Perſons are confined there for their Profanation of Religion, he ought to conclude that he alſo is confined for the ſame Reaſon, and muſt therefore declare what he believes to be the Cauſe of his own Apprehenſion and Confinement in the Priſons of the holy Office. If he ſays he cannot imagine what it ſhould be, before he is asked any other Queſtions, he receives a gentle Admonition, and is put in mind of the Lenity of the holy Office towards thoſe who confeſs without forcing, and of the Rigour of Juſtice uſed towards thoſe who are obſtinate. They alſo compare other Tribunals with the holy Office, and remind him, that in others the Confeſſion of the Crime draws after it immediate Execution and Puniſhment; but that in the Court of the Inquiſition, thoſe who confeſs, and are penitent, are treated with greater Gentleneſs. After this he is admoniſhed in Writing, and told, that the Miniſters of the holy Office never take up any one, or are uſed to apprehend any one without a juſt Cauſe, and that therefore they earneſtly beſeech him, and command and enjoin him exactly to recollect and diligently to conſider his Actions, to examine his Conſcience, and purge it from all thoſe Offences and Errors it labours under, and for which he is informed againſt.

After this he is asked, what Race he comes of? Who were his Parents and Anceſtors? that hereby he may declare all his Family. Whether any one of them was at any time taken up by the holy Office, and enjoined Penance? This they are eſpecially asked who deſcend from *Jews*, *Mahometans*, and Sectaries. Where he was brought up? In what Places he hath dwelt? Whether he ever changed his Country? Why he did ſo, and went into another Place? With whom he converſed in the aforeſaid Places, who were his Friends, and with whom he was intimate? Whether he ever converſed with any of his Acquaintance about Matters of Religion, or heard them ſpeak about Religion? In what Place, and when, and how often, and of what Things or Matters they converſed? They particularly ask theſe Queſtions of Perſons whom they imagine to be crafty and cunning, and not eaſily brought to declare the Truth, that from their Kindred, Country, Education, Employment, Time paſt, Acquaintance, Friendſhip, Behaviour and Words, the Inquiſitor may draw ſtrong Arguments of Suſpicion. Theſe Queſtions are eſpecially asked, when ſuch Criminals are examined, who have dwelt in the Countries of Schiſmaticks, Hereticks, and other infidel and erroneous Perſons, becauſe, when they have dwelt a long while amongſt ſuch Perſons, they are believed the more eaſily to have followed their Practices.

He is moreover asked, of what Profeſſion he is, and what Employment of Life he follows? Whether he be rich or poor? What Returns he hath, and what the Expences of his Living? Then he is commanded to give an Account of his Life, and to declare what he hath done from his Childhood, even to this Time. And that he may declare all this, he is asked, in what

Places

Places or Cities he ſtudied, and what Studies he followed? Who were his Maſters? whoſe Names he muſt tell. What Arts he learnt? What Books he hath had and read? and whether he hath now any Books treating of Religion, and what? Whether ever he hath been examined and cited, or ſued, or proceſſed before any other Tribunal, or the Tribunal of the holy Inquiſition, and for what Cauſes; and whether he was abſolved or condemned, by what Judge, and in what Year? Whether ever he was excommunicated, and for what Cauſe? Whether he was afterwards abſolved or condemned, and for what Reaſon? Whether he hath every Year ſacramentally confeſſed his Sins, how often, and in what Church? Then he is commanded to give the Names of his Confeſſors, and of thoſe from whom he hath received the Euchariſt, and eſpecially for the ten Years laſt paſt, and more. What Orations or holy Prayers he recites? Whether he hath any Enemies? whoſe Names he muſt tell, and the Reaſons of their Enmity.

If the Criminal is perſuaded by theſe, or by more or leſs ſuch Interrogatories, openly to confeſs the Truth, his Cauſe is finiſhed, becauſe 'tis immediately known what will be the Iſſue of it.

But if after all theſe Interrogatories the Priſoner perſiſts in the Negative, and ſays he doth not know why he is cited or ſent to Priſon, the Inquiſitor replies, that ſince it appears from his own Words, that he will not diſcover the Truth, and that there is no Proof of his having ſuch Enmities with any Perſons, or that there are no ſuch Cauſes of Hatred as he alledges, by which others could, or ought to be induced ſlanderouſly, and falſely to inform againſt him, that therefore there ariſes the ſtronger Suſpicion, that the Depoſitions againſt him in the holy Office are true. And therefore he is beſeeched and adjured by the Bowels of Mercy of Chriſt Jeſus, to conſider better and better, and ingenuouſly to confeſs the Truth, and to declare whether he hath erred in Words or Deeds in the aforeſaid Matter relating to the Faith, and the holy Office, or rendred himſelf ſuſpected to others. All theſe Things are provided for by the *Toledo* Inſtructions, *An.* 1561. *cap.* 13, 14, 15, 16.

All theſe Interrogatories propoſed to the Criminals, and their Anſwers and Sayings, as propoſed and ſpoken, are faithfully and at large to be written down by the Notary; and if the Criminal can write, he ſubſcribes it; if he can't, he puts the Sign of the Croſs.

If by ſuch general Interrogatories the Inquiſitor can't draw from the Priſoner a Confeſſion of the Crime of which he is accuſed, he comes to particular Interrogatories, which relate to the Matter it ſelf, or the Crimes or Hereſies for which the Criminal was denounced. For Inſtance, if he was accuſed for denying Purgatory, then one, two, or three Days after his firſt Examination, he is again interrogated by the Inquiſitor, whether he hath any Thing, and what, to ſay beſides what he ſaid in his other Examination? Whether he hath thought better of the Matter, and can recollect the Cauſe of his Impriſonment, and former Examination, or hath at leaſt any Suſpicion who could accuſe him to the holy Office, and of what Matters? Whether he hath heard any one diſcourſing of Paradiſe, Purgatory, and Hell? What he heard *Cap.* 15.

con-

concerning that Matter? Who they were that he heard ſpeaking or diſputing of thoſe Things? Whether he ever diſcourſed of them? What he hath believed, and doth now believe about Purgatory? If he anſwers, that his Faith concerning it hath been right, and denies any ill Belief, but that he believes as holy Mother Church believes and teaches, he is order'd to ſay what the holy *Roman* Mother Church doth think and believe concerning this Article.

When he hath given in his Anſwer he is admoniſhed to conſider well and tell the Truth, and to beware of lying, becauſe the contrary is proved by Witneſſes againſt him, *viz.* that ſpeaking of Purgatory, he ſaid ſuch and ſuch Things; and then they recite the Words which the Denouncer and Witneſs have depoſed were ſpoken by him. And thus he is ſucceſſively in the ſame or another Examination interrogated in the ſame manner concerning the ſeveral Articles for which he is denounced: As, whether he ſaid, that ſimple Fornication is no Sin, that 'tis lawful to invocate Devils, and offer Sacrifices to them, and the like. All theſe Things the Notary receives, as in the firſt Examination, and the Priſoner ſubſcribes them.

If the Priſoner's Anſwers don't agree with his former Anſwers, he is examined again and again, and, as ſhall hereafter be ſhewn, they proceed to farther Remedies. And whatever the Popiſh Doctors may write, [they who have been in the Priſon of the Inquiſition with one Mouth, complain] that they are left in Uncertainty for a long while, what are the Crimes of which they are accuſed; and that the Inquiſitors would willingly draw from their own Mouths a Confeſſion of Crimes to which they are not conſcious. And this is cunningly invented for this Reaſon, that if any Perſon ſhould have happened to have ſpoken any thing not agreeable to the *Roman* Faith, and of which poſſibly he is not accuſed, he may diſcover thoſe Things alſo, becauſe he is uncertain of what Crime he is accuſed, on Account of that horrid Silence which is there obſerved; or that he may accuſe himſelf falſely of certain Things to free himſelf from that dreadful Jayl. So that they all affirm their Accuſations are not diſcovered to them till after a long Confinement, that ſo being broken and tired out with a continued and horrible Impriſonment, they may confeſs of themſelves Things that never came into their Minds.

If the Priſoner knows the Reaſon of his being apprehended, and openly confeſſes every Thing of which he hath been accuſed to the Inquiſitor, he is commended, and encouraged to hope for a ſpeedy Deliverance. If he confeſſes ſome Things, but can't gueſs at others, he is commended for taking up the Purpoſe of accuſing himſelf, and exhorted by the Bowels of Mercy of Jeſus Chriſt, to proceed, and ingenuouſly to confeſs every Thing elſe of which he is accuſed, that ſo he may experience that Kindneſs and Mercy, which this Tribunal uſes towards thoſe, who manifeſt a real Repentance of their Crimes by a ſincere and voluntary Confeſſion. If the Caſe doth not relate to formal Hereſy, but to ſome certain kind of Fortune-telling, or heretical Word, and the Priſoner confeſſes the Act or Word, but denies the heretical Intention, the Inquiſitors uſe all their Endeavours to draw from him alſo a Confeſſion. And firſt they enquire, whether that Fact or Word was committed once, or oftener?

*Annot. Ib.*

oftener? If oftener, they don't eaſily believe the Criminal, affirming his good Intention and Belief; becauſe the oftener an heretical Propoſition was uttered, there ariſes a greater Suſpicion, that both his Intention and Faith were bad.

*Carena* alſo adviſes the Inquiſitors to uſe great Caution in the Examination of Prieſts guilty of Solicitation, that they may not make the Confeſſors by their Interrogatories reveal thoſe Things which fall under the Seal of Secreſy. He tells us of a Caſe that happened in a certain Inquiſition, that when the Proceſs was ſent to the ſacred Congregation, and their Eminencies the Fathers had conſidered it, they commanded every Thing to be eraſed out of it, which in the leaſt ſavoured of the Breach of the Seal.

During the firſt ten Days of the Impriſonment, theſe Admonitions are uſu- *Cap.* 16. ally repeated three times by the Inquiſitor. But 'tis in the Inquiſitor's Pleaſure to admoniſh and examine them oftener, eſpecially when they think the Priſoners refuſe to diſcover the Truth out of Wickedneſs, or don't remember thoſe Things of which they are denounced. In the ſupream Inquiſition at *Rome* Criminals are brought into Court to Audience, examined, and admoniſhed, not only thrice, but five times, and ſometimes ſeven, and ſometimes thrice within ten Days. Others, eſpecially young Perſons accuſed of heinous Crimes, are examined and admoniſhed thrice only. From whence they draw theſe Rules. 1. When the Perſon accuſed is taken up, the Inquiſitor muſt examine and interrogate him frequently concerning thoſe Things which he denies, but which are proved, or of which there are vehement Suſpicions that he is guilty, till he will ſay nothing more, either by confeſſing or denying, and his Cauſe is therefore concluded. 2. It is then proper to admoniſh and interrogate the Criminal ſeveral times, when he either denies the Crimes objected to him, or partly denies, and partly confeſſes them, or if there ariſe new Evidence and Proofs. 3. 'Tis left to the Pleaſure of the Inquiſitors, how often the Criminal ſhall be brought up, admoniſhed, and examined, and in a doubtful Caſe 'tis ſafeſt often to admoniſh and examine him. 4. Altho' 'tis not determined by any particular Law, and three Admonitions ought to be made within the firſt ten Days after Impriſonment, yet 'tis ſafe, that ſoon after the Criminals are ſent to Jayl, they ſhould be brought to Audience, admoniſhed and interrogated, and that other Examinations ſhould be made a few Days after, whilſt their Memories are freſh. But their Practice is directly contrary to this Advice, for the Priſoners are detained in the Jayls of the Inquiſition ſeveral Years, and 'tis very often an whole Year, before they are again examined, after the three firſt Admonitions.

## CHAP. XIV.

### *What Arts the* INQUISITORS *uſe to draw a Confeſſion from the Priſoners.*

Pegna, *prax. l. 2. c. 19.*

THESE Examinations and Admonitions are repeated by the Inquiſitors, as often as they think fit, for they are not bound to any certain Number. But in theſe Examinations the Inquiſitors uſe the greateſt Artifice, to draw from the Priſoners Confeſſions of thoſe Crimes of which they are accuſed. And altho' they ſay that the Inquiſition makes uſe rather of Prudence than Art, yet they ſuggeſt ſeveral Orders and Artifices which muſt be uſed, and which they generally uſe in making Inquiſition.

Firſt, they obſerve this exactly, that as often as the Criminals are judicially interrogated, they muſt ſo often touch the holy Scriptures, ſwearing that they will declare the Truth, ſo that an Oath always precedes the Depoſition. The ſame alſo is obſerved as to the Witneſſes. Yea, if the Examination ſhould be broke off, and what follows ſhould be only a Continuation of the former, they muſt firſt take an Oath before they are ſuffered to proceed. Beſides, the Inquiſitors always admoniſh and exhort the Criminals, to confeſs ſimply, fully and truly, whatſoever they have done againſt the Catholick Faith, and eſpecially to take Care that they don't bear falſe Witneſs either againſt themſelves, or any others. *Cap.* 20. They muſt not give them Occaſion to behave indecently or rudely, or to utter Reproaches; neither muſt they promiſe them Impunity or entire Deliverance, whilſt they are endeavouring to draw a Confeſſion from their Mouths, leaſt they ſhould prove Liars, by promiſing what poſſibly they may not be able to perform, or leaſt the Criminals under this Hope ſhould confeſs Things which perhaps they never committed.

They muſt not be negligent and ſlothful in omitting ſuch Interrogatories as belong to the Cauſe it ſelf, and the Articles brought into Judgment; nor muſt they be too troubleſome and imprudent, by putting impertinent Interrogatories, which don't relate to the Cauſe. But if the Criminal gives Occaſion to ask other Queſtions by his Anſwer to ſuch Interrogatories as are founded upon legal Proofs, if they are not altogether trifling and foreign to the Cauſe, he may be interrogated upon them, becauſe he himſelf gave Occaſion for them in his Anſwer. And thus ſometimes, as they ſay, it happens in this Tribunal, that from the Anſwers of the Criminals they begin to make great Diſcoveries.

But particular Care muſt be taken, that the Witneſſes who depoſe againſt the Criminal, may not be diſcovered by the Interrogatories, in Favour of the Faith, leaſt the Criminals ſhould conſpire againſt them, whereby few would be found to denounce Hereticks, or ſuſpected Perſons, or to give Teſtimony againſt them. If the Criminal begins to confeſs, and freely to declare the Truth, the Inquiſitor muſt not hinder, diſturb, or interrupt him, nor break off his Confeſſion, tho' other Affairs call for him, or the Time be elapſed; becauſe

cauſe, they ſay, 'tis often found, that thoſe whoſe Confeſſions have been once interrupted, will not afterwards confeſs any more, or will retract what they have begun to confeſs.

If there ariſes any Thing doubtful, worthy of Conſideration, from the Criminals Anſwers, which 'tis proper to know how the Denouncer and Witneſſes underſtood it, they are to be called again and re-examined. For Inſtance, whether the Priſoner ſpoke what he ſaid in jeſt, or earneſt? Or as repeating the Words of other Perſons, or aſſerting it as his own Mind and Opinion? But here the Inquiſitor muſt be cautious, that he doth not by re-examining the Depoſition or Witneſſes diſcover any Thing, from whence the Depoſer or Witneſſes may gather what the Criminal hath confeſſed; but muſt ſo interrogate him, as tho' 'twas only for his own Information. *Cap.* 18.

Theſe are the principal Cautions which they are commanded to obſerve in the Examination of Criminals, all which the Inquiſitors do very carefully and exactly keep to, as far as they find any of them of any Service to draw Confeſſions from the Priſoners own Mouths, but which they eaſily omit, when they think proper, and it will ſerve their Turn, eſpecially when they would be of any Uſe and Aſſiſtance to the Criminals. That they may draw from them a Confeſſion, they are at firſt kind, and pretend the ſincereſt Affection, and 'tis recommended to the Inquiſitors to treat the Criminals tenderly, whilſt they are heard, interrogated and examined, and to remember that they themſelves are Men, who might have fallen into the ſame or like Crimes, unleſs they had been guarded by the Grace of God, and not to ſuffer the Criminals, altho' common and mean Perſons, to ſtand whilſt they are hearing, but to command them to ſit down. If in their Confeſſion, or in the Beginning or Progreſs of their Examination they are ſo moved with Grief, or affected with Repentance, as to ſhed Tears, or to implore the Mercy of the Judges, and ask Pardon for their Offence upon their bended Knees, or holding up their Hands, or beating their Breaſts, all theſe Circumſtances muſt be inſerted by the Notary in the Acts of the Proceſs.

But if the Priſoners don't confeſs thoſe Things of which they are accuſed, as it may often happen, either becauſe the Accuſations are falſe, or becauſe they don't remember Things, eſpecially if at the Diſtance of ſeveral Years, and what was ſaid was not in the leaſt premeditated, but inadvertently and in common Diſcourſe, they make uſe of a quite different Method of Inquiſition, and try every Art to catch and inſnare theſe miſerable Criminals, already tired out by their vile Impriſonment, Arts not always wholly agreeable to the Admonitions juſt now mentioned. This is well deſcribed by *Eymerick*, and therefore I ſhall give it here, that the Manner of proceeding againſt the Priſoners in the Jayl of the Inquiſition, may be more diſtinctly and fully underſtood. *Direct. Inq. part.* 3.

According therefore to the Directory of *Eymerick*, the Inquiſitors don't interrogate all Perſons of the ſame Things, nor in the ſame Order, but begin and carry on their Inquiſition, either from what the Accuſers and Denouncers ſay, or from the Anſwers of the Witneſſes, or from what *n.* 86.

they learn by Experience, or from what their own Judgment dictates to them; ſo that they often vary the Manner of their Examination, leaſt if the Criminals ſhould foreſee the ordinary Manner and general Rule, they ſhould take the proper Precaution and Care to evade it.

n. 87. If any openly confeſs their Errors, and perſiſt in them, and deſire to defend them, they are convicted by learned Men of the Crime of Hereſy; for 'tis ſhewn that their Opinions are condemned by the Church of *Rome*, and are therefore heretical, and becauſe they obſtinately defend their Opinions before the Inquiſitors, they are judged to be Hereticks.

But if they will not declare their Errors, but rather cover them by ambi-
Com. 22. guous Anſwers, the Inquiſitor uſes various Arts to diſcover them. For as far as it can be done he openly interrogates them, and propoſes a ſingle Thing in each Interrogatory, and not ſeveral together, and compels the Criminal to anſwer directly to each of them. If he gives obſcure and doubtful Anſwers, he is commanded to explain them, before he proceeds farther. If he will diſpute, the Inquiſitor enters into no Diſpute with him, but only interrogates and examines him. Sometimes he ſpeaks kindly to him, pretends that he pities his Misfortune, adviſes him to ſpeak the Truth, which he gives him to underſtand he is acquainted with, and intimates to him ſome Hope of Favour and Freedom if he confeſſes, becauſe the holy Office of the Inquiſition uſes to ſhew Mercy to ſuch who voluntarily confeſs their Crimes, how grievous and hei-
100. nous ſoever they may be, and in a friendly Manner ſpeaks to him thus.

Com. 23. "Don't be afraid openly to confeſs, if you did happen to believe theſe ſort of "Perſons, who taught ſuch and ſuch Things, to be good Men. You be-"lieved them, and willingly heard them, and gave them ſomewhat of your "Subſtance, or received them ſometimes into your Houſe, or made Con-"feſſion to them, becauſe you were a ſimple Man, and loved them, thinking "them to be good Men, and knowing no Evil of them. The ſame Thing "might have happened to Perſons much wiſer than you, and ſo they might "have been deceived. I have Pity on you, and ſee your own Simplicity hath "deceived you, and tho' you are in ſome meaſure faulty, yet they are more "ſo who have inſtructed you. Tell me therefore the Truth, for you ſee I "know the whole Matter, that I may immediately free you, and ſhew you "Favour." After this he interrogates him, not ſo much concerning the Fact, as the Circumſtances of it, that the Perſon may believe he knows the Fact already.

101. If the Inquiſitor knows that he who denies the Fact is convicted by Wit-neſſes, he reads over to him what they have depoſed, ſuppreſſing their Names,
102. ſo as that he may know he is convicted by them, but may not underſtand who they are. If he knows he is not convicted by Witneſſes, and the Depoſitions againſt him have from the Proofs an Appearance of Truth, the Inquiſitor takes up the Proceſs, looks it over, and ſays, 'tis evident you don't ſpeak the Truth, but that 'tis as I ſay. Tell me therefore the plain Truth. This the Inquiſitor doth, that the Criminal may believe that he is already convicted, and that it appears ſo in the Proceſs. Or he hath a Paper in his Hand, and pre-

tends

tends to read out of it Things that are not contained in it, and then with an Air of Admiration cries out, How can you deny it? Is it not fully evident to me? But here they take Care not to come to ſuch Particulars, from which the Criminal might eaſily gather, that the Cauſe is not ſo well known to the Inquiſitor as he pretends. He only mentions what he is certain of, and as to other Things ſpeaks only in the general. Sometimes the Inquiſitor pretends 103. he muſt go to ſome other Place, and ſhall not return for a long while, and ſays that he pities the Priſoner, would expedite his Affair, and ſo perſuades him to confeſs; otherwiſe he muſt remain in the Jayl in Irons till his Return, and he doth not know when that will be, that by this Means the Priſoner may, thro' Dread of that direful and wearifom Impriſonment, be perſuaded to confeſs. And indeed in the Book of the Sentences of the *Tholouſe* Inquiſition, there are Inſtances of ſeveral, who have been continued in Jayl ſeveral Years, before Sentence pronounced againſt them. And even to this Day the Priſoners are kept many Years in the Priſon of the Inquiſition, which in *Spain*, and eſpecially in *Portugal* is very diſmal, as hath been related, Book 2. Chap. 18. that they may at length confeſs. Sometimes the Inquiſitor multiplies his In- 104. terrogatories, and teaſes his Priſoner, that he may confeſs this or the other Thing, or may be caught contradicting himſelf. When this happens, the Priſoner is ſhewn the Contradictions in his Anſwers, and admoniſhed to declare the Truth, or that otherwiſe he will be put to the Queſtion and Tortures. And if he will not confeſs, he is, as will be afterwards ſhewn, by the Advice of the Learned, actually made to undergo them, that by Torments they may draw forth the Truth.

If neither by this Means he can draw out a Confeſſion from the Priſo- 106. ner, he treats him more kindly in his Food and Drink, and procures certain Perſons, no ways ſuſpected concerning the Faith, to go to him, and frequently to converſe with him of ſeveral Things, not at all relating to his Cauſe; and at length to perſuade him to have Confidence in them, and to adviſe him to confeſs the Truth, promiſing that the Inquiſitor ſhall be favourable to him, and that they will be Mediators in his Behalf. At length the Inquiſi- Pegna, tor comes along with them, and promiſes to ſhew him Favour if he will con- *Com.* 23. feſs the Truth, for all is gracious that is done for the Converſion of Hereticks, and even their Penances are Graces, and Remedies. If the Perſon accuſed by this Means prays for Favour, and confeſſes his Error, the Inquiſitor anſwers, you ſhall have much greater Favour than you asked, but promiſes it only in general Terms, for he thinks he fulfils his Promiſe, in ſhewing the leaſt Kindneſs to him afterwards. And when they promiſe to ſhew Favour, 'tis underſtood only of thoſe Puniſhments, which are left to their own Power, *viz.* ſeveral penitential Puniſhments, becauſe they can't remit thoſe which are appointed by the Law. They farther teach, that notwithſtanding the Promiſe of ſuch Grace, they may inflict penitential and arbitrary Puniſhments; becauſe, if after a long time, continual Admonitions, and ſometimes after the Torture, Criminals confeſs their Offence upon the Promiſe of ſuch Grace, the Inquiſitors may legally and juſtly inflict more grievous penitential Puniſh-

ments,

ments, if they omit the leſſer; for if one or another be remitted, they think they abundantly ſatisfy their Promiſe.

And by theſe flattering Aſſurances they ſometimes overcome the Minds of more unwary Perſons, and when they have obtained the deſigned End, immediately forget them all. Of this *Gonſalvius* gives us a remarkable Inſtance.

*Pag.* 82, *&c.* "In the firſt Fire that was blown up at *Seville*, *An.* 1558, or 1559, "amongſt many others who were taken up, there was a certain pious Ma- "tron, with her two Virgin Daughters, and her Niece by her Siſter who "was married. As they endured thoſe Tortures of all Kinds, with a truly "manlike Conſtancy, by which they endeavoured to make them perfidi- "ouſly betray their Brethren in Chriſt, and eſpecially to accuſe one another, "the Inquiſitor at length commanded one of the Daughters to be ſent for to "Audience. There he diſcourſed with her alone for a conſiderable time, in "order to comfort her, as indeed ſhe needed it. When the Diſcourſe was end- "ed, the Girl was remanded to her Priſon. Some Days after he acted the "ſame Part again, cauſing her to be brought before him ſeveral Days to- "wards the Evening, detaining her for a conſiderable while, ſometimes tel- "ling her how much he was grieved for her Afflictions, and then intermixing "familiarly enough other pleaſant and agreeable Things. All this, as "the Event ſhewed, had only this Tendency, that after he had perſuaded "the poor ſimple Girl, that he was really, and with a fatherly Affection "concerned for her Calamity, and would conſult as a Father what might be "for her Benefit and Salvation, and that of her Mother and Siſters, ſhe might "wholly throw her ſelf into his Protection. After ſome Days ſpent in ſuch "familiar Diſcourſes, during which he pretended to mourn with her over her "Calamity, and to ſhew himſelf affected with her Miſeries, and to give her "all the Proofs of his good Will, in order, as far as he could, to remove "them, when he knew he had deceived the Girl, he begins to perſuade her "to diſcover what ſhe knew of her ſelf, her Mother, Siſters, and Aunts, who "were not yet apprehended, promiſing upon Oath, that if ſhe would faith- "fully diſcover to him all that ſhe knew of that Affair, he would find out a "Method to relieve her from all her Misfortunes, and to ſend them all back "again to their Houſes. The Girl, who had no very great Penetration, "being thus allured by the Promiſes and Perſuaſions of the Father of the "Faith, begins to tell him ſome Things relating to the holy Doctrine ſhe had "been taught, and about which they uſed to confer with one another. When "the Inquiſitor had now got hold of the Thread, he dextrouſly endeavoured "to find his Way throughout the whole Labyrith, oftentimes calling the "Girl to Audience, that what ſhe had depoſed might be taken down in a le- "gal Manner, always perſuading her, this would be the only juſt Means to "put an End to all her Evils. In the laſt Audience he renews to her all his Pro- "miſes, by which he had before aſſured her of her Liberty, and the like. "But when the poor Girl expected the Performance of them, the ſaid Inqui- "ſitor, with his Followers, finding the Succeſs of his Craftineſs, by which "he had in part drawn out of the Girl, what before they could not extort

"from

" from her by Torments, determined to put her to the Torture again, to force " out of her what they thought ſhe had yet concealed. Accordingly ſhe " was made to ſuffer the moſt cruel Part of it, even the Rack, and the See *Cap.* " Torture by Water, till at laſt they had ſqueezed out of her as with a Preſs, 29. " both the Hereſies and Accuſations of Perſons they had been hunting af- *Book* 4. " ter. For, thro' the Extremity of her Torture, ſhe accuſed her Mother " and Siſters, and ſeveral others, who were afterwards taken up and tortured, " and burnt alive in the ſame Fire with the Girl."

But if they don't ſucceed neither with this Way, the Inquiſitor permits ſome 107. Perſon or other, who is not unacceptable to the Priſoner, to go to him, and converſe with him, and if it be needful to feign himſelf ſtill one of his own Sect, but that he abjured thro' Fear, and diſcovered the Truth to the Inquiſitor. When he finds that the Priſoner confides in him, he comes to him again late in the Evening, keeps on a Diſcourſe with him, at length pretending 'tis too late to go away, and that therefore he will ſtay with him all Night in the Priſon, that they may converſe together, and the Priſoner may be perſuaded by the other's Diſcourſe, to confeſs to one another what they have committed. In the mean while there are Perſons ſtanding at a proper Place without the Jayl, to hear and to take Notice of their Words, who, when there is need, are attended by a Notary.

This *Eymerick* taught was to be done in his Time. But now the Perſon, Gonſalv. who thus treacherouſly draws out any Thing according to his Deſire from his *p.* 95. Fellow Priſoners, prays the Jayl-keeper, when, according to Cuſtom, he is viſiting his Priſoners, to deſire that he may have an Audience. For this is the Method the Priſoners take. And when he goes out of his Jayl to give an Account of his Office, he diſcovers not only what he heard from any of the Priſoners, but alſo how they received the Doctrine propoſed to them, whether with a chearful or angry Countenance, and the like, if they refuſed to give them an Anſwer, and what they themſelves think of them. And the Accuſations of ſuch a Wretch they look on as the beſt and moſt unexceptionable Evidence, altho' the Perſon be otherwiſe one of no manner of Worth, Credit or Regard.

Theſe ſort of Perſons they call Flies, and, as *Gonſalvius* tells us, they may be known and found out by this one Thing, that for the moſt part they thruſt themſelves into ſuch ſort of Converſations, without any one's asking them, and begin very impertinently ſuch Diſcourſes concerning Doctrine. And therefore he adviſes, that if the Priſoners act prudently, they will let them talk themſelves weary, without giving them any Anſwer.

They who have been lately in the Priſon of the Inquiſition in *Spain* and *Portugal*, tell us of another Method they make uſe of to draw a Confeſſion from the Priſoners, *viz.* The Inquiſitor ſuborns a certain Perſon, to go and ſpeak to the Priſoner, and to tell him he comes of himſelf, and of his own Accord, and to exhort him to tell the Inquiſitor the Truth, becauſe he is a merciful Man, and ſuch fine Tales. This is now particularly the Cuſtom in *Spain* and *Portugal*, as to thoſe they call the new Chriſtians. If the Priſoner affirms himſelf

himſelf to be a Catholick, and denies that he is a *Jew*, and is not convicted by a ſufficient Number of Witneſſes, they ſuborn one to perſuade him to confeſs. If he proteſts himſelf innocent, the other replies, that he alſo hath been in Jayl, and that his proteſting his Innocence ſignified nothing. What, had you rather dwell for ever in Jayl, and render your Life miſerable, by being ever parted from your Wife and Children, than redeem your Freedom, by confeſſing the Crime? By this and other like Things the Priſoners are oftentimes perſuaded to confeſs not only real but fictitious Crimes. And when their Conſtancy is thus almoſt overcome, the Inquiſitor commands them to be brought before him, that they may make him a Confeſſion of their Faults.

*Pag.* 95. Here *Gonſalvius* juſtly wonders, how Men can be of ſo deviliſh a Temper, as voluntarily to hire themſelves out to ſuch Offices, and at ſo great an Expence to themſelves, who, in order to obtain their Deſire, don't refuſe to be Priſoners with others, even for two or three Months together, in a vile narrow Jayl, but bear willingly what the Priſoners themſelves bear with the greateſt Uneaſineſs, all the Inconveniencies of it, Hunger, Naſtineſs and Stench; and what is more wonderful, go out of one Jayl into another, and then into a third, twice, thrice, four times, always experiencing the ſame Inconveniencies, and paſſing their whole Lives in ſuch a Circle of Delights.

After theſe Examinations, if the Priſoner confeſſes nothing, he is carried back to Jayl, and there kept ſometimes for a whole Year, before he is again brought up to the Inquiſitor. In the mean while, if he deſires an Audience, to confeſs certain Matters, he may gently rap at the Door of his Jayl. The Keeper being acquainted herewith by his Officers, immediately comes to him, and is deſired by him to ask the Favour of the Inquiſitor of being brought before him.

If the Criminal will not anſwer to the Interrogatories judicially put to him, or anſwers uncertainly and doubtfully, as, I don't know, I don't remember, I have forgot; or when he anſwers as to the main Fact, but refuſes to anſwer concerning the principal Circumſtances of the Crime, if the Circumſtances are ſuch, which 'tis probable he may remember, he may be put to the Torture to make him preciſely anſwer affirmatively or negatively: Becauſe Criminals are not apprehended for the Crime of Hereſy without legal Proofs, *i. e.* more than half full Proof. 'Tis the ſame Caſe if they pretend Madneſs. Sometimes alſo they are humbled by Impriſonment and Faſting.

Pegna, *prax. l.* 2. *c.* 21. *n.* 5. And to ſhew that they deal more mildly in their Tribunal than in others, they add, that in other Tribunals, when the Criminal is accuſed of any certain Fact, he hath not Time allowed him to deliberate whether he will confeſs, or be tried, but is immediately compelled to anſwer. But that in this Tribunal, where Criminals are dealt with more mildly and gently, they not only give them Time to anſwer when they ask it, but oftentimes admoniſh, and even invite them, to think better of the Matter, and carefully to recall to their Remembrance their Actions and Words, that they may anſwer truly,

and

and that for this Reaſon they are often examined and interrogated. But in Truth this Pretence of Mercy is uſed only for this End, that the Criminal, who if convicted by two agreeing Witneſſes, and ſtill perſiſting in the Negative, is ſure to be condemned as a Negative without Mercy, and delivered over to the ſecular Court, may, through Fear of this horrible Puniſhment, confeſs the Crime he is accuſed of, and ſo be reconciled as a Penitent, by certain Penances laid on him by way of Puniſhment, or delivered over as impenitent to the ſecular Court, and burnt alive. But if he revokes his Confeſſion when made, and be not legally and fully convicted by Witneſſes, he is moſt cruelly tortured, becauſe by his own Confeſſion he hath given Proof againſt himſelf ſufficient for the Torture. If he is overcome by the Torture, and renews his Confeſſion, he is puniſhed as an Heretick; if he overcomes the Torture, he is enjoined ſalutary Penances at the Pleaſure of the Inquiſitor, as one ſuſpected of Hereſy.

As often as the Criminals or Witneſſes are examined, either in their firſt or after Audiences, when the Examination is ended, before they go from Audience, the Inquiſitors order the Notary clearly and diſtinctly, to read over to them their Depoſitions, that ſo the Criminals or Witneſſes may add, diminiſh, correct or change what they pleaſe, that, if there be any Miſtake, it may be rectified, which otherwiſe ſcarce could be. For if after the Criminal or Witneſs goes from Audience, or if at any Diſtance of Time after, they would amend or alter what they have ſaid, it would not be allowed them. And therefore the Notary, at the End of the Examination, writes down, that the Depoſition was read over to the Criminals or Witneſſes, and adds whatever either of them added, diminiſhed, altered or amended. Pegna, c. 22.

If, beſides the Depoſition of the Informer, and the Witneſſes named by him, they have any other Matters, the Inquiſitors inquire farther, that the Evidence may be more fully confirmed. This they particularly obſerve, when the Witneſſes or Criminal name any other Perſons in their Examination on one Side or the other. If ſuch Perſons are preſent, the Inquiſitor orders them to be called and interrogated. If they are abſent, and it be not ſafe or eaſy to come at them, he writes to the Inquiſitor or Biſhop, in whoſe Dioceſe they are, that he ſhould cite and interrogate them privately, and find out the Truth, and to tranſmit the Matter to him faithfully and ſecretly as he diſcovers it. Thus 'tis determined by the Council of *Narbonne*, Cap. 22. *Yet ſo, that the other Inquiſitors may nevertheleſs inquire out what they are able to diſcover, and write to thoſe Inquiſitors in what Things ſuch Perſon is culpable.* *Cap.* 23.

## CHAP. XV.

### *How the Priſoners are allowed an* ADVOCATE, PROCURATOR *and* GUARDIAN.

WHEN the Proceſs hath gone thus far, and all the Informations and Proofs relating to the Cauſe, are taken in a ſummary Manner, and the Criminal fully examined, if he confeſſes his Crime, there is no room for a Defence, nor do they proceed to the re-examining of the Witneſſes. But if he perſiſts in the Negative, and demands the Depoſitions to be given him, whether he is preſumed to be innocent or obſtinate, he is admitted to his Defence, and all Matters are prepared to form the Proceſs. And therefore becauſe the Criminal muſt be convicted by Witneſſes, the Witneſſes muſt be re-examined. And that the Criminal may not ſeem to be denied his Defence, he hath an Advocate and Procurator allowed him. He is not however at Liberty to chuſe the one or other as he pleaſes, nor is it lawful for any Advocate to defend an Heretick under Pain of Infamy. Cap. *Si adverſus nos.* de hæret. The Inquiſitors appoint him his Advocate, and he is bound to them by Oath. The Criminal may alſo ſometimes, if he demands it, have a ſecond Advocate. The Qualifications neceſſary in ſuch an Advocate are theſe: That he be a good Man, not ſuſpected as to his Honeſty, skilful in the Canon and Civil Law, zealous for the Faith, and not in the leaſt tinctured with Hereſy, and he is allowed to the Criminal, according to the preſent Cuſtom in *Spain*, after he hath received three Admonitions, freely to confeſs the Truth. The Manner to be obſerved in theſe Things, and how the Advocate muſt act in defending the Criminal, is provided by one of the *Madrid* Inſtructions, *A.* 1561. *c.* 23. *The Inquiſitor or Inquiſitors ſhall admoniſh the Criminal how much it concerns him to confeſs the Truth, after which they ſhall nominate him an Advocate or Advocates, appointed by the holy Office for this Purpoſe, in order to his Defence; and in the Preſence of every one of the Inquiſitors, the Criminal ſhall confer with his Advocate, and, as he counſels, ſhall anſwer to his Accuſation by Word or Writing. But before the Advocate undertakes his Defence, he ſhall ſware that he will truly and faithfully defend him, and obſerve Secreſy in every Thing he ſhall hear or ſee, even altho' he took his Oath when he was firſt appointed by the holy Office to this Employment. The Buſineſs of the Advocate is to admoniſh the Criminal to confeſs the Truth, and to ask Pardon for his Fault, if he be guilty of any. The Anſwer ſhall be notified or intimated to the Fiſcal.*

*Direct.* P. 3. *com.* 28.

*De Cathol. Inſtit. tit.* 5. §. 1, 3.

The fourth Inſtruction of *Toledo*, *cap.* 4. as *Simancas* relates it, gives a ſomewhat fuller Account of this Matter. The Advocate muſt not defend any Criminals, unleſs he be allowed it by the Inquiſitor. He muſt ſwear, that he will faithfully defend the Cauſe, and uſe only juſt Exceptions, and that as ſoon as ever he knows the Cauſe to be unjuſt, he will inform firſt the Criminal of it, and then the Inquiſitors, and immediately throw it up. After this he muſt

muſt ſwear to obſerve Secreſy, and not to make any Diſcoveries to any one. The Form of the Oath adminiſtred to the Advocate, is this. *I N. Doctor of both Laws, being here before you, Reverend Fathers, Inquiſitors of the holy Inquiſition againſt heretical Pravity, touching theſe moſt holy Goſpels of God now before me, do ſwear, and promiſe, that I will ſincerely and faithfully, without any Cavilling or Fraud, defend N. whoſe Defence was committed to me, now impriſoned as a Criminal, and under Inquiſition, in the Jayls of this holy Office, for ſuch Cauſes as appear in the Acts of the ſaid holy Office, and that I will maintain his Cauſe, and that I will not inſtruct this my ſaid Principal to conceal the Truth in his Trial, and that as far as I ſhall know this my ſaid Principal to be guilty, convicted of the Crime, or criminal, in the Matter or Matters for which he is inquiſited, I will throw up his Defence: And moreover, as ſoon as I ſhall have Knowledge in the Management of this Cauſe of any Accomplice, or Perſon culpable in this Cauſe, I promiſe and engage to diſcover it immediately to the ſaid Office, under Penalty of Perjury and Excommunication, from which I cannot be abſolved, but by this holy Office. So help me God, and theſe holy Goſpels of God.* This Oath is written down by the Notary, and inſerted in the Acts of the Proceſs. The Advocates receive §. 6, 7, 8. their Stipend from the Treaſury, when they defend the Cauſes of the Poor, which is uſually very ſmall, but honourable. But if the Criminals are not poor, the Advocates receive their Pay out of their Effects. *Inſtruct.* 1. *c.* 16. Whatever the Advocates alledge, in the Preſence of the Criminal, is taken, as if it had been alledged by the Criminal himſelf, unleſs the Advocate hath been miſtaken, and the Priſoner contradicts it within three Days. But in the Cauſe of Hereſy, if after three Days it ſhall appear that the Advocates have been miſtaken, or imprudent, it ſhall not prejudice the Criminal, becauſe it ſeems, in this Judgment, they act with Simplicity and the higheſt Equity, and reject the Rigour of the Law. If the Criminal ſays the Crimes objected to him are forged, his Advocate adviſes him either to challenge the falſe Witneſſes, or to find out ſome juſt Exception and Defence, and ſays he is prepared to defend his Cauſe as far as juſt.

The Criminal alſo had formerly allowed him a Procurator. But theſe Pro- Pegna, curators are now ſeldom allowed, becauſe the Advocates are ſufficient, and *com.* 28. exerciſe the Office of Procurators. Yea, they ſay that the Inquiſitors appear more truly to be the Procurators of the Criminals, ſince by Office they are to take Care of the Criminals Defences. Concerning theſe we thus read in the *Madrid* Inſtruction, *An.* 1561. c. 35. *Altho' the Inſtruction provides that Procurators ſhall be allowed the Criminals, yet they ought not to be granted them, becauſe Experience teaches that many Inconveniencies ariſe from thence; and becauſe of the little Advantage which the Criminals obtain by it, they ſhall not be any longer allowed them: Altho' ſometimes when the Caſe is urgent, 'tis allowed the Advocate to defend the Criminals.*

If the Criminals are under twenty-five Years of Age, they are allowed Curators (a ſort of Guardians) by whoſe Authority they are defended, leaſt, thro' Unskilfulneſs or Youth, they ſhould conceal, or ſay any Thing, which if ſpoken or concealed, might be of Advantage to them. The ſame In-

ſtruction thus provides, cap. 25. *If the Criminal be not of the Age of 25 before he anſwers to his Accuſation, let him be allowed a Curator, by whoſe Authority the Confeſſions made ſhall be ratified, and the whole Proceſs formed. But let not ſuch Curator be of the Officials of the holy Office, but he may be either his Advocate, or any other grave, faithful and conſcientious Perſon.* He muſt alſo take an Oath before the Inquiſitor, laying his Hand upon the Goſpels, *not to defend the Priſoner falſely, not to inſtruct him to conceal the Truth in Judgment; but to protect him according to the Form of the ſacred Canons, and the Manner of the holy Office; and that as ſoon as ever he ſhall know him to be an Heretick, and obſtinate, he will deſiſt from the Proſecution of his Cauſe and his Defence. But in caſe he will reconcile himſelf to holy Mother Church, that he will aſſiſt him; and that if it ſhall happen that he knows any Perſon or Perſons in the Proſecution of ſuch Cauſe, to be an Accomplice, or culpable, he will diſcover him or them, and that he will not diſcourſe of his Proceſs, nor of any Thing contained in it, much leſs of the Merits of ſuch Cauſe, directly or indirectly, with any Perſon except his Principal, or his Procurator or Advocate, under Pain of Perjury and Excommunication,* latæ ſententiæ, *from which he cannot be abſolved but by this holy Office, nor even by this, unleſs he expreſſes the Cauſe that induced him thus to falſify his Oath.*

## CHAP. XVI.

### *How the Priſoners are interrogated by the* INQUISITOR, *whether they allow the Witneſſes to be rightly examined, and re-heard.*

Regna, cap. 4.

THE Advocate being thus granted, and ſometimes, if the Criminal demands it, the Procurator alſo, the Inquiſitor uſually asks the Criminal whether he allows the Witneſſes examined againſt him, to be well and truly examined, and legally re-heard. If he anſwers, that he would have the Witneſſes heard over again, and examined with his Interrogatories, and thus convict them of Falſhood, the Inquiſitor orders him a Copy of the Articles formed by the Procurator of the Exchequer, to the End that he may form his Interrogatories, and allows him three Days to give them in. If he anſwers, that he will conſider, and conſult his Advocate or Procurator, the Copy of the Articles formed by the Promotor of the Exchequer is given him, to aſſiſt him the better how to reſolve. If he refers himſelf to the Diſpoſition of the Law, 'tis the ſame Thing as if he had anſwered, he would have the Witneſſes re-examined. Becauſe, according to Law, the Proof of Witneſſes received in a ſummary Manner is not regular, unleſs they be fully re-produced when the Party is cited, and re-examined upon the Interrogatories of the Criminals, that they may thus confirm their Evidence and Depoſitions. If he anſwers, that he refers himſelf to the Pleaſure of the Inquiſitor, the Inquiſitor muſt not accept it, leaſt it ſhould be afterwards objected to him that he hindered the Criminal from making

making a legal Defence, and therefore he refers him to his Advocate or Procurator. If he anſwers, that he allows the Witneſſes, who have depoſed againſt him, to be well and truly examined, and legally re-heard, but ſaves to himſelf the Liberty of making Exceptions againſt Perſons and their Depoſitions in drawing out his Defences, this is wrote down by the Notary in the Acts. But altho' the Criminal ſhould thus allow the Witneſſes as legally examined, the Inquiſitors muſt however take Care, that they be formally re-examined, eſpecially when there is any Fear of their Death, or long Abſence. In ſuch a Caſe the Witneſſes muſt be admitted, before the Trial commences. *Simancas* more fully deſcribes this Matter: "In the Cauſe of He- §. 15, 22.
" reſy, in which Inquiſition is made by Virtue of the Judges Office, the Wit-
" neſſes are to be admitted before the Commencement of the Trial. The Pro-
" motor of the Exchequer ought however to be careful, and to inſiſt, that the
" Witneſſes repeat what they have ſaid, and give in again their Evidence, be-
" fore ſome Religious Perſons, leaſt poſſibly they ſhould die before the Trial
" commences. And the Judges ought not to deny this, leaſt the Proofs
" ſhould fail, but when-ever there is a juſt and probable Cauſe, the Witneſ-
" ſes muſt be produced again, and their Evidence confirmed. Now 'tis a §. 23.
" juſt Cauſe for re-hearing the Witneſſes before the Trial, if they labour
" under any dangerous Diſtemper; or if they are to be long abſent, or if the Tit. 44.
" Criminal himſelf be abſent, or if preſent not yet apprehended, nor put in §. 23.
" Jayl.; or if the Witneſſes are to be delivered over to the ſecular Court."

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## CHAP. XVII.

### *How the* PROMOTOR FISCAL *exhibits the Bill of Accuſation.*

AFTER the Inquiſitor hath received, as hath been ſaid, Information againſt the Criminal denounced to him, the Procurator Fiſcal, in ſome Inquiſitions, preſents in Court, in Preſence of the Criminal, a Bill of Indictment, containing the Heads of the Offences, of which the Criminal is accuſed, and preſents it to the Inquiſitor. The Form of this Bill is not every where the ſame. *Eymerick* gives this in his Directory of the Inquiſitors. Pegna, c. 29.

*I* N. *Fiſcal of the Office of the moſt holy Inquiſition, do before you the Reverend Inquiſitor, delegated Judge in Cauſes of the Faith againſt heretical Pravity, criminally accuſe* N. *who being baptized a Chriſtian, and accounted as ſuch amongſt all Perſons, hath departed from the Catholick Faith, and hath impiouſly gone over to the deadly Hereſy of the* Manichees, *and other Hereticks, particularly ſuch a one, and ſuch a one; preaching, writing, compoſing, and firmly aſſerting many heretical, erroneous, ſcandalous, and greatly ſuſpected Opinions, in Approbation and Praiſe of the aforeſaid Hereſy, and Hereticks, whom he follows as his Maſters.* *Simancas* gives us another in theſe Words.

*I accuſe*

Tit. de Accusationibus.

*I accuse* N. *who being baptized a Christian, believes and teaches many Heresies, and especially this and that,* after mentioning which, the Promotor Fiscal concludes, with demanding that *N.* may be punished as an obstinate Heretick, and suffer the most grievous Punishments of Heresy.

*Lewis a Paramo* gives us a larger Form of this Bill of Indictment, in his History of the Inquisition, *Lib.* 3. *Qu.* 9. *n.* 21.

Very Illustrious and most Reverend Lords;

I *Doctor or Licentiate* N. *and Advocate Fiscal of this holy Inquisition, that I may act better, according to Law, as I ought to do, appear before your most reverend Lordships, and having performed all the Solemnities required, and necessary by Law, do criminally accuse* N. *of the Town or City of* N. *the Diocese of* N. *and Kingdom of* N. *and by specifying the Fact say, that when the aforesaid* N. *was a Christian, and washed with the Waters of Baptism, and marked with the Character of Christ, and by common Estimation reputed as such, and called so in the Opinion of all, or being found such, and in Possession, or as tho' he had been a Christian, enjoying also the Exemptions and Immunities of Christians, and using their Privileges as he ought to do, yet neglecting the Fear of Christ, our Saviour, and despising the Rigour of Justice of this Office of the holy Inquisition, hath said and done, some Thing heretical, and many other Things as an Heretick, by which 'tis presumed, and ought to be presumed, that the aforesaid* N. *hath lost that Faith, and that Belief or Virtue of Believing, which was given him in the most holy Sacraments of Baptism and Confirmation; and that he hath given undoubted Faith to those Errors, which those false and impious Persons* Martin Luther, Calvin, Mahomet, *and other Arch Hereticks have advanced, and I do especially accuse him, because he was persuaded, that any Person in those Errors might obtain eternal Glory.*

*And, in the first Place, about two Years ago, as, I suppose, the aforesaid* N. *when he was in a certain Place of the City or Town of* N. *did, in the Presence of the venerable and discreet Persons,* N. *say and pronounce certain heretical Words, or suspected of Heresy, or did such a Thing as savoured of Heresy, plainly manifesting that he thought so,* viz. *that Faith alone, without Works, was sufficient to Salvation, and to obtain eternal Glory; or that* Mahomet *was the Messenger of the true God, and that the Laws given by him are sufficient for any one to be saved by, and he may be saved by them. On this account one of the By-standers, perfectly hearing what he said, sharply reproved him; but he, on the contrary, produced, and suddenly alledged several Places of the holy Scripture, to defend his impious and heretical Opinion, and changing and despising the true Sense and right Understanding, interpreted the alledged Places according to his own Will, and contrary to the vulgate Edition of the Church of* Rome, *and the canonically received Opinion, tenaciously adhered to his Error. And not content with these Things, he produced many other Arguments, by which he might maintain and confirm his Heresy, which he doth firmly hold, believe and defend, from whence 'tis clearly inferred, that he is, without doubt, an Heretick.*

*Besides, the aforesaid* N. *endeavouring every Day to spread his Error, not content with his own Fall, hath, with the greatest Diligence and earnest Care, in this or that Place, the third Day of the fourth Month* N. *taught others according to his own*

*Mind*

*Mind his poiſonous Opinions, acting herein as a Maſter, and thus dogmatizing, hath deceived his Hearers, and cauſed them to deviate from the Catholick Truth, ſo that in very many Diſcourſes he hath endeavoured to perſuade all into the Belief of his Errors.*

*To theſe Things I add, that by this ſuſpected Doctrine, contrary to the Faith, and by his Deed or Word which was not right, he hath given manifeſt Occaſion of Ruin to other Standers by, remarkable for their Probity of Manners, Religion, and good Life, who, by this Offence, have deviated from the Catholick Faith, and believed his Opinions.*

*Farther, the aforeſaid* N. *comes to be accuſed, becauſe, little regarding his ſpiritual Profit, and his Conſcience, he doth not know how to ſign himſelf with the Sign of the Croſs, and what is worſe, doth not know the Apoſtles Creed, the Lord's Prayer, the Salutation of the Angel, and other Things of the like Nature.*

*Add to this ſomething not leſs grievous, and affording great Suſpicion,* viz. *that there was found in his Houſe a Book, or certain Volume, or Paper, containing the Opinions and wicked Errors of* Luther, Bucer, *or other Hereticks, or the Law publiſhed by* Mahomet, *all which Things ſecretly kept by him, and prohibited by publick Edicts, and the Eccleſiaſtical Cenſures, afford no light Suſpicion of his depraved Heart.*

*Farther, that having been otherwiſe received to Mercy, becauſe he had confeſſed his Errors, and being withal reconciled, and united to the Boſom of holy Mother Church, who, according to her motherly Tenderneſs, doth not reject thoſe who fly to her, or having vehemently abjured, promiſing he would not aſſent to ſuch Errors, under the Penalty of being a Relapſe, he hath fallen into them again. All which Things he did, and willingly performed, pretendedly, feignedly, and with an evil Intention, only craftily to eſcape Puniſhment, which appears to be plainly proved, ſince, like the Dog to the Vomit, he hath returned to the ſame, and the like Errors, as is certain, by ſufficient Evidence. Hereby he is become liable to the Puniſhment of the Relapſed, which therefore by Law I demand may be inflicted on him, and therefore I exhort your Lordſhip or Lordſhips, that he may be cut off as a Member, now almoſt dead, and incapable of the Influences of the Head of the Church,* viz. *Chriſt, and may be thrown out, ſeparated and excluded from the Converſation of the Faithful, that there may be no Occaſion to others to waver in the Faith, and the whole Maſs may not be corrupted: And becauſe the Church, of whoſe Mercy he is unworthy, hath nothing farther to do with him, let him be thruſt out from her as an unfruitful and barren Tree, and finally delivered over to the ſecular Judge.*

*Farthermore, I accuſe him, that being born of the* Saracen *Race, and it being therefore prohibited and forbidden him by your Lordſhips, to have any Correſpondence with them, or to eat in their Houſes, yet in Contempt of that Command, he hath ſpoken to them openly, and in ſuſpected Places hath ſecretly inſinuated himſelf into their Diſcourſes.*

*Farthermore, I accuſe him of having uſed ſcandalous Words and new Opinions in his publick Sermons, not edifying enough the People, yea, he hath raſhly given them an handle of erring againſt the received Doctrine of the holy Fathers, and the Determinations of the School-men. What, hath he not taught all theſe Things, being moved*

*ved by Vanity, proud, haughty, and full of Arrogance? Carefully endeavouring to depart from the Catholick and universally received Truth, that he might appear to be singular by the Singularity of his Opinions and Tenets, and might be known among all as one by himself, and the Author of such Things. Wherefore I stedfastly demand that he may be made to recant what he preached, and publickly to change his Mind, at least in those Things that are scandalous, and sound ill, and immediately declare in what Sense he understands other doubtful Matters which are capable of different Interpretations, that from henceforward no one may be scandalized, and that he may be deprived of the Office of Preaching without any Delay.*

*Finally, since it may be presumed, or is presumed from many Things said by him, and inconsiderately uttered, that the aforesaid Criminal hath possibly asserted or said other Things contrary to the Catholick Faith, and hath believed many other Errors, as an Heretick and Apostate, tho' I do not now accuse him of them, yet I intend, in the Progress of the Cause, to accuse him. Possibly also he knows other Accomplices infected with Heresies, and defiled with this or the other, in the Dominions of our Lord the King, and will not inform against them, least they should be punished. These also, lastly, as far as by Law I can, I denounce and accuse that they may be punished in the same Manner.*

*Wherefore, I beseech your Lordships, that crediting all the aforesaid Matters, or so much of them as is sufficient, the aforesaid* N. *may, by your Sentence, be declared and condemned as a relapsed, impenitent, negative, feigned, pretended, confessing, obstinate, perjured, incorrigible Heretick, and that the Punishments appointed by the common Law, and the pragmatick Laws, and the Instructions of this holy Office, and any others any ways incurred by him, may be inflicted on him; and that finally, according to Custom, he may be delivered over to the secular Arm. To this must be added, that the said Criminal is under Excommunication, and obnoxious to the same, by which all his Goods, moveable and immoveable, any ways appertaining to him, as also all Deeds and Rights are to be applied and confiscated to our Lord the King, and finally, that all his Contracts are to be absolutely and entirely annulled, and finally, that all his Children and Grandchildren, descending from him in the Male Line, even to the second Generation, be declared unfit, unworthy, and incapable of any Offices or Dignities whatsoever.*

*But if all those Things proposed by me, and considerately said before this most solemn Tribunal, shall not be so proved by Witnesses as to cause him to be immediately punished as an Heretick, they are however enough to put him to the Torture, by which he may be made openly to discover the aforesaid Matters, and to acknowledge the Errors of which he is accused.'*

*Finally, I call God to Witness, and this holy Cross, that I have not formed this Accusation out of Hatred, or any other evil Affection of Mind, but with this View only, that Crimes may be punished, and the Good of the Common-wealth consulted, and that herein I may be successful, I implore this your holy Office.*

Licentiate or Doctor *N.*

In

In the ſupream Court of the general Inquiſition at *Rome*, the Procurator of the Exchequer gives in the Points and Articles containing the Offences inſtead of this Bill of Indictment.

But the Promoter of the Exchequer muſt give in Writing the Accuſation to the Judge, in Preſence of the Perſon he accuſes, and read himſelf the Bill of Accuſation, and immediately ſwear that he hath not put in the Accuſation maliciouſly, but to diſcharge his Office, and becauſe he intends to prove the Crimes objected. "But 'tis ſufficient, as *Brunus* ſays, that any Bill *l.* 4. *c.* 7. "be put in, which, tho' the exact Form of Law is not obſerved, contains the §. 11, 12. "naked Intention of the Petitioner. Yea, a Bill is valid in this Proceſs, al- "tho' it contains no Demand, or a trifling one, ſo that the Intention of the "Petitioner is known by the Declaration."

Here *Gonſalvius* obſerves, that when the Accuſation is put in, in Writing, *p.* 25. it ordinarily contains very many pretended Crimes, which the Criminal never thought of, and for which no one inform'd againſt him before the Inquiſitors; and that for theſe Reaſons. Firſt, That the miſerable Wretch may be confounded with the Multitude and Heinouſneſs of the Crimes charged on him, and being almoſt out of his Wits, may not know where he is, where to turn himſelf, or what to anſwer. Secondly, That they may try whether he admits any Thing of the Crimes objected to him, or at leaſt by diſcourſing with him upon any one of them, may draw him into a Snare. And that this is Truth, and not feigned out of Hatred to the Inquiſition, plainly appears from the Hiſtory of the Inquiſition at *Goa*, the Author of which was a Papiſt, and *c.* 22. ſays, that when the Heads of his Accuſation were read to him by the Procurator of the Exchequer, this was one Article, amongſt others, that he was accuſed, and ſufficiently convicted, that he had ſpoken very irreverently of the Pope, and againſt his Authority. To which Accuſation he anſwered, that he did not remember that he had ſpoken of the Pope in the Manner ſet forth in the Accuſation; but that if they would relate to him the whole Diſcourſe, he would ſincerely and faithfully confeſs whatſoever he had ſaid. When, after *c.* 23. this, he was brought before the Inquiſitor again, and the Promoter of the Exchequer repeated the ſame Accuſation, they would not open to him the whole Series and Connection of the Diſcourſe, nor was this Accuſation afterwards repeated, nor any Mention made of it in his Proceſs, when his Sentence was publickly read at the Act of Faith. From hence he infers, that this Accuſation was falſe, and only brought againſt him to ſee if they could fiſh any Thing out of him.

A Copy of the Accuſation is uſually given to the Criminal, to which he Simanca *tit.* 44. muſt anſwer Article by Article, and his Reply muſt be immediately written §. 22. down by the Secretary before the Inquiſitors. But if he continues to deny every Thing, he hath an Advocate allowed him, who generally doth nothing more, than deny the Matters contained in the Accuſation, and affirms that the Criminal is and always was a Catholick, and that this is plain from his many pious and good Works, and that his Character hath been always very good and unblemiſhed amongſt all Perſons. Then they come to a Concluſion, and

a certain Term is fixed by the Judges to prove the Matters alledged on each Side, within which the Promotor of the Exchequer produces his Witneſſes again, and the Criminal proves his Defences.

## CHAP. XVIII.

### *How the Interrogatories given in by the* CRIMINALS *are formed and exhibited.*

IN Order to prepare his Defence, the Criminal alſo puts in his Interrogatories, and deſires of the Inquiſitor that the Witneſſes may be interrogated upon them. But if they are impertinent, or deceitful, or tending to diſcover the Informers, or to intangle and puzzle the Witneſs, or to conceal the Truth, or to diſcover ſuch Circumſtances by which he might come to the Knowledge of the Informer or Witneſſes, the Inquiſitor hath Power to ſet them aſide.

Cathol. Inſtit. *t.* 64. *n.* 10. But as *Simancas* tells us, this is not the Method in the *Spaniſh* Inquiſitions, where the Criminals are not allowed to put Interrogatories to the Witneſſes of the Promotor of the Exchequer, but the Judge is obliged by Office diligently to examine into the Credit, Life and Manners of the Witneſſes. But the contrary is obſerved in all the Inquiſitions in *Italy*, as *Carena* informs us, and that it ought to be thus, he proves by this Reaſon. *That by not giving the Names of the Witneſſes, the Defence of the Criminals at this Tribunal is imperfect and maimed enough, without introducing any other Novelty; but that the Defences of the Criminal would be neceſſarily much more imperfect and maimed, if the Witneſſes againſt him ſhould not be ſuffered to be interrogated by him.*

P. 3. *t.* 7. §. 11.

Pegna, *l.* 2. *c.* 31. In *Italy* 'tis uſual for the Criminals Advocate, to demand that the Witneſſes may be examined and interrogated, concerning their Country, Age, Condition, State, Employment. As, whether he is rich or poor, Clergyman or Layman, a Religious, Regular or Secular, married or unmarried, a Father or a Son? Whether he be a Citizen or Inhabitant of that City where the Cauſe is carried on? When he came to the Place? Whether he always lived in it? Whether he lives at his own or other Perſon's Charge? Whether in no Trial or Caſe he never depoſed upon Oath Things which were not true, either for or againſt any Perſon? Whether he was ever excommunicated, and on what Account, and in what Place? Whether he, or his Parents, were not declared infamous, interdicted, excommunicated, and incapable to bear Witneſs? Whether he confeſſed his Sins this Year at *Eaſter*, to what Confeſſor, and in what Church? Likewiſe whether he hath taken the Sacrament of the Euchariſt, from what Prieſt, and whom preſent? Whether he was ever under Inquiſition, accuſed or proceſſed, for any Crime or Crimes, what they were? Whether he was abſolved or condemned, and by wha t Judge? Whether any Thing was ſaid, promiſed, forgiven, or granted to

to him on this Account, that he ſhould bear Witneſs againſt any one, or that he ſhould ſay in his Examination any Thing general or particular, and whether he doth or hath expected any Advantage, and what, by his Depoſition? Whether he hath or doth know *N.* what was the firſt Time, Place, and Occaſion of his knowing him? Whether he hath often converſed with him, and concerning what Matters, and whether when he firſt knew him, the ſaid *N.* was accounted a good and Catholick Chriſtian, a Man of a good Conſcience, and fearing God? Then they proceed to the Articles, and interrogate the Witneſſes concerning the Year, Month, Day, Place and Hour, where and when the aforeſaid *N.* diſcovered Hereſy? Whether he ſpoke it as the Sentiment of his Mind, deliberately and ſeriouſly, or only as repeating another's Words? What the preciſe Words were which he ſpoke? And the like with regard to the other Articles.

## CHAP. XIX.

### *Of the re-examining the* WITNESSES, *and the Puniſhment of falſe* WITNESSES.

THE Witneſſes cited by the Judges muſt be carefully examined and interrogated. And firſt they are asked, Whether they know why they are ſummoned? If they ſay they do know or gueſs that they are ſummoned in the ſame Cauſe in which they have already given Witneſs before the ſame Judge, they are aſked, if they remember what they depoſed in the ſaid Cauſe? And whether it be true? And whether they will add, take away, change or correct any Thing? Whatſoever they anſwer muſt be faithfully written down by the Notary. Then they are examined again without ſeeing their former Depoſitions, that the Truth or Falſhood may more evidently appear from their Conſiſtency or Inconſiſtency. Finally, this Confirmation of their Teſtimony muſt be made before the Judges and Secretary, and two religious and diſcreet Perſons. For as the Party concerned is not allowed to be preſent, two Perſons of Reputation muſt be preſent in his Stead. Simanc. t. 44. §. 23.

If the latter Depoſitions do not agree with the former, the former muſt be read over to the Witneſſes, and they interrogated what is the Meaning of this Difference in what they ſay, and gently admoniſhed to perſiſt in the Truth. Laſtly, whatſoever they ſay muſt be written down, and if they contradict themſelves, or faulter, they muſt be ſent into Cuſtody, and if the Caſe requires it, be tortured and puniſhed. §. 24.

When a Witneſs ſwears that he will conceal his Evidence, and is afterwards convicted of diſcovering it before the Publication of it, he may be condemned by the Judges at their Pleaſure, either to do publick Penance, or to pay a Fine, *tit.* 64. §. 83.

Fine, or to Baniſhment, or the Pillory, or to be whipped, and, if the Nature of the Crime requires it, to the Gallies.

If the Witneſſes are evidently caught in a Falſhood, they may be puniſhed by the Inquiſitor, according to their Merits. He is accounted a falſe Witneſs who tells a Lie, by depoſing a Falſhood, and who ſuppreſſes or conceals the Truth. And if the Inquiſitor finds any Witneſs to be manifeſtly falſe, he, together with the Biſhop, may puniſh him. Thus 'tis provided by a certain Reſcript of *Leo* X. *An.* 1520. in which there are many Rules for the Obſervation of the Inquiſitors of the Kingdom of *Aragon*, and, amongſt others, this which I have mentioned. *And that if any Witneſs ſhall depoſe a Falſhood in the ſaid Office of the Inquiſition, he ſhall be puniſhed by the Eccleſiaſtical Judges, the Ordinaries of the Dioceſe in which ſuch Falſhood ſhall be committed, and by the Inquiſitors of the ſaid Pravity, deputed together, for the Time being, in the ſame Dioceſe, ſo that the one ſhall not be able to proceed without the other.*

Direct. p. 3. com. 122.

Direct. p. 3. §. 73. com. 122.

*Eymerick* mentions a Caſe, which happened at *Tholouſe*, *An.* 1312. that a Father accuſed his Son of the Crime of heretical Pravity, and afterwards retracted it. His Sentence may be ſeen in the Book of the Sentences of the *Tholouſe* Inquiſition, *fol.* 42. The Doctors however think, that as there is no Law extant concerning this Matter, ſuch a one ought not to be delivered to the ſecular Court, but that his Life ought in Mercy to be granted to him. But *Leo* X. by a Bull directed to Cardinal *Adrian*, Inquiſitor General of *Spain*, *An.* 1518. granted full Power of condemning to whatever Puniſhments the Inquiſitor ſhould think proper, and of delivering or turning over to the ſecular Court, without any Fear of any Eccleſiaſtical Puniſhment or Cenſure, or Mark of Irregularity, *all and ſingular Perſons of every State, Degree, Order, Dignity and Condition, who, in the Crime of Hereſy, ſhall be legally proved to have knowingly given falſe Witneſs, or to have induced any other to do ſo, or to conceal the Truth, or to have killed any one for giving true Evidence, or falſe Evidence not proved ſo, or to have maimed him in any Member, or to have deprived him, or cauſed him to be deprived of all, or the greateſt Part of his Effects*; which they believe ought to be done in this Caſe only, when the Witneſſes have charged any one with formal Hereſy, and the Criminal is delivered over to the ſecular Court, and puniſhed with Death, as a Negative and Impenitent, upon account of their Evidence. But when any falſe Witneſs voluntarily accuſes himſelf, and asks for Mercy before the Perſon he gave Evidence againſt is delivered over to the ſecular Court, and put to Death, they think he ought to be ſpared, and his Life given him, but that he ought to ſuffer ſome very grievous Penance. Thus they acted in that Inſtance of *Tholouſe*, with *Pontius Arnaldi*, a falſe Witneſs againſt his Son, in the Crime of Hereſy, acknowledging his Fault, and craving the Mercy of the Inquiſitor, who was condemned to perpetual Impriſonment, in which, during Life, he was to do wholeſome Penance, with the Bread of Grief, and the Water of Affliction; and beſides this, to ſtand publickly, ſo as to be openly ſeen and known by all By-ſtanders, upon an high Ladder, before the Door of the Cathedral Church of St. *Stephen*, the ſame Day, and the following, from the Beginning of the Morning till the

ninth

ninth Hour, in an open Place, without any Covering on his Head, in his Shirt, or Girdle, wearing two red Tongues, a Span and a half long, and three Fingers broad, before on his Breaſt, and two hanging down between his Shoulders, and his Hands tied together; and to be placed alſo in the ſame Manner, and to ſtand before the Gates of the Church of St. *Saturninus* the Lord's Day following, and the Lord's Day after before the Gate of the gilded Church; and to wear always upon every outward Garment the ſaid Tongues, and never to go in or out of his Priſon without the ſaid Tongues hanging down or appearing, and to mend them when ever they were torn, and to make new ones whenever the old ones ſhould be worn out; and the Moment he came down from the Ladder, to be carried and ſhut up, without Delay, in the Jayl near the Caſtle of *Narbonne*, there to remain for ever. The ſame Sentence was pronounced againſt *John de Salvetate*, a falſe Witneſs, *fol.* 83, 84.

Sentence is pronounced openly againſt falſe Witneſſes, becauſe they are brought into publick View, and their heinous Wickedneſs is declared before the People, and their Deſign and Villany is diſcovered in expreſs Words, and the Reaſon given and made known to all why they are thus puniſhed. But if ſuch falſe Witneſſes have done but little Miſchief, they receive a leſſer Puniſhment; for they are brought forth, wearing an infamous Mitre, with returning Hereticks, and other Penitents at the publick Act of the Faith, or publick Proceſſion, when their Crimes are read openly, and they themſelves baſtinadoed or whipped, baniſhed, or ſent to the Gallies, or puniſhed with ſome other extraordinary Puniſhment.

However, ſuch falſe Witneſſes are ſeldom puniſhed in a manner proportioned to the Heinouſneſs of their Crime, for this Reaſon undoubtedly, that they may not deter Perſons too much from giving Evidence. The Author of c. 32. the Hiſtory of the Inquiſition at *Goa*, gives us a memorable Inſtance of *Joſeph Pereira de Meneles*, accuſed to the Inquiſition as a Sodomite, by a certain Enemy of his, who pretended himſelf to be reconciled. This Perſon had bribed five of *Pereira*'s Servants, who all, with one Mouth, teſtified, that they ſaw their Maſter committing this Crime with ſuch a Servant. *Pereira* denied the Crime, but the Servant, who was young, thro' Fear of being put to Death, confeſſed it, tho' never committed. *Pereira*, as a convicted Perſon, was condemned to be burnt. When he was brought forth in Proceſſion at the Act of Faith, he continued to proteſt his Innocence. Upon which the Judges remanded him to Priſon, and ordered him to be kept to the next Act of Faith, in order, if poſſible, to find out more exactly the Truth. In the mean while the Witneſſes were often interrogated, and being each of them ſeparately asked, whether or no the Moon ſhone that Night in which they ſaw *Pereira* committing that deteſtable Crime, their Anſwers were found contradictory, and the Falſhood of the Accuſation diſcovered; and being put to the Queſtion, they confeſſed their Crime, and declared their Maſter innocent. But what was the Puniſhment inflicted upon the Author of ſo villanous a Crime? Trifling, in Compariſon of the Heinouſneſs of the Offence. *Pereira*'s

Enemy,

Enemy, who had bribed his Servants, was condemned to a nine Years Baniſhment in *Africa*, and the ſuborned Witneſſes to the Gallies for five. *Carena* alſo relates from *Diana*, that in the Inquiſition in *Sicily*, a certain Regular, who was a falſe Witneſs, and who had ſuborned others to give falſe Evidence in the holy Office, was condemned to the Gallies for ten Years, and the Women, his Accomplices, to be whipped, and to ſix Years Baniſhment.

From theſe ſlight Puniſhments, which, if compared with the Heinouſneſs of the Offence, bear no Proportion with it, 'tis evident that the Inquiſitors are not willing to deter any one from giving Evidence. And indeed here is a great Inequality between the Offence and Puniſhment. If any one grievouſly wounds a Witneſs, who hath born Witneſs againſt him, altho' he hath not killed him, he is puniſhed with Death; and if the Wound be ſlight, he is condemned for ever, or at leaſt for ten Years, to the Gallies. Whereas he who gives falſe Witneſs, and ſuborns and bribes others to fix by falſe Evidence a Crime upon another, which being proved by the Agreement of the Witneſſes, the Criminal muſt ſuffer the cruel Puniſhment of being burnt, is only baniſhed, and the falſe Witneſſes condemned to nothing more than the Gallies for ten or five Years, or to be baſtinadoed, and baniſhed for ſix. Now who doth not ſee, that the Inquiſitors are careful only to provide for the Security of the Witneſſes, and had rather condemn Perſons loaded with falſe Accuſations, than deter any one by the Severity of Puniſhment from giving a falſe Evidence, which, in this Caſe, ought eſpecially to be regarded, becauſe the Witneſſes are not diſcovered to the Criminal.

Hoofdii, *Hiſt. Belg.* l. 2.

A much more exemplary Puniſhment was inflicted upon a Woman, convicted of giving falſe Evidence, at the *Hague*, by the Command of the Court of *Holland*, *An.* 1561. *William Bardeſius*, Prætor of *Amſterdam*, and M. *Henry Theodorus*, Conſul of the ſame City, were at mortal Enmity with each other, upon Account of ſome political Differences. The Conſul burnt with a Deſire of Revenge, and that he might have a ſpecious Pretence for deſtroying his Enemy, determined to accuſe him of the Anabaptiſtical Hereſy, at that Time univerſally hated for the late Diſturbances which had been raiſed on that Account at *Munſter* and *Amſterdam*. He joined with him in this Deſign, *Florentius Egberti*, Pariſh-Prieſt of the Old Church, and Commiſſary of *Ruardus Tapperus* the Inquiſitor, that the Fraud being thus covered over with an Eccleſiaſtical Varniſh, might be carried on with greater Succeſs. They could not find out a more proper Inſtrument to execute this vile Deſign, than a certain old Woman named *Sophy*, nick-named *Yellow Sophy*, upon account of the execrable Colour of her Body, a Widow, burthened with a great many Children, who made it her Buſineſs to betray the Reformed, who held their private Meetings, not being allowed the Uſe of the publick Churches, and maintained her wretched Family with the accurſed Wages ſhe earned, by informing againſt them. This Woman, with two others of the ſame Stamp, and two Men, one of which was a Notary, they prevailed with, by a little Money, and large Promiſes, to bear falſe Witneſs againſt the Prætor. Their ſeveral Evidences, which were ſuggeſted to them by the Conſul and the Parſon, they confirmed by

by Oath, in which they declared that the Prætor, who with his Wife, were both re-baptized, had a Meeting of the Anabaptiſts in his Houſe, and that his Wife was preſent at the Meeting. This Evidence the Parſon ſent in Writing to *Ruardus Tapperus*, Inquiſitor of *Lovain*. But altho' this Matter was carried on very privately, the Prætor was too quick not to ſmell it out; and therefore to prevent his being deſtroyed ſuddenly, and without being able to make his Defence, he goes immediately to *Bruſſels*, and applies himſelf to *Mary* Queen Dowager of *Hungary*, then Governeſs, and in whom he had a very conſiderable Intereſt, and managed his Cauſe with ſo much Dexterity and Succeſs, that the Senator *Cornelius Monk*, and with him the Secretary of the ſupream Council of *Mechlin*, were ſent to *Amſterdam* to enquire into the Affair. And they found it no difficult Matter, upon examining the Witneſſes, to detect the Falſhood and Perjury. But as it was neceſſary to proceed ſlowly to make a full Diſcovery, the Cauſe was committed to the Court of *Holland*, who deputed ſome of their Members to make Inquiſition concerning it. The two Women were impriſoned at the *Hague*, and being interrogated about the Prætor's Anabaptiſm, and the Circumſtances of it, they ſaid that he was re-baptized in a Chapel that lay near his Garden, and that they ſaw it thro' the Window ſtanding upon a Bench. Upon this two of the Senators were ſent to inſpect the Place, and found the Window ſo very high, that tho' they ſtood upon the Bench, they could not reach it with their Hand, ſo that 'twas impoſſible the Women could look thro' it, to ſee what was tranſacted within. And thus the Falſhood was diſcovered. The Authority of the City, and the Favour of the Eccleſiaſticks, for ſome time protected the Conſul and the Parſon. But the Crime was too enormous to eſcape unpuniſhed, and therefore both of them were apprehended by Order of the Court of *Holland*, *May* 3, 1557. the Parſon, as he was ſtanding before the Altar, and in ſo haſty a manner, that they would not ſuffer him to go home, and change his Garments. After this they were both carried to the *Hague*. The Notary and the other Evidence had the ſame Fate. And though it was difficult to cover over a Falſhood, proved by ſo many Perſons, who agreed in their Confeſſions, yet it was a long while, yea, ſeveral Years before the whole was openly diſcovered. But at laſt the falſe Witneſſes ſeeing no Poſſibility of eſcaping, asked Pardon for their Offence of the Royal Clemency, and publickly confeſſed their Falſehood and Perjury. One of the Witneſſes was publickly whipped. The Notary deprived of his Office, and baniſhed. The Parſon openly confeſſed that the Accuſations he had written againſt the Prætor and his Wife, to *Ruardus Tapperus*, were raſh, impertinent, and without due Information, and ſaid he repented of it, and was therefore commanded to depart from *Amſterdam*, and deprived of the Office of Commiſſary of the Inquiſition. One of the Women died in Jayl, and as to *Sophy*, ſhe had, *May* 3, 1561. her Tongue firſt cut out, was then hanged, had her Body burnt, and publickly expoſed. But before ſhe was carried to Execution, ſhe ingenuouſly confeſſed, in the Preſence of three Senators, that every Thing ſhe had depoſed and given in Evidence upon Oath, and in her Examinations in Court, againſt the Prætor of *Amſterdam*,

*ſterdam*, was falſe and forged, and that ſhe was perſuaded to this Villany by the Solicitations, Promiſes and Gifts of M. *Henry Theodore*, Conſul of *Amſterdam*, and of M. *Florentius*, Parſon of the Old Church in that City, and being brought to the Place of Puniſhment, ſhe publickly declared the ſame before all the Spectators. Conſul *Henry* however denied every Thing, and becauſe he could not be convicted by any Thing under his own Hand, he deſtroyed the Evidence of the Witneſſes againſt him, by pleading that they were perjured, and by this Means eſcaped with his Life. He was however kept Priſoner for a long while, but at laſt diſmiſſed, upon giving Security and Bail. This was the Puniſhment inflicted by the ſecular Judge. If the Inquiſitors would proceed with the ſame Rigour againſt falſe Witneſſes, ſo many miſerable and innocent Creatures would not be deſtroyed by falſe Informations and Evidence. But they had rather entice Perſons with hope of Impunity, and when the Falſhood of the Evidences appears ſo plain, as not to be palliated, they chuſe to inflict on them a ſlight Puniſhment, rather than deter them from becoming Evidences, by a Puniſhment juſt and proportioned to their Crime.

## CHAP. XX.

### *How the* PRISONER *hath a Copy of the Evidence, without the Names of the* WITNESSES.

Pegna, *p.* 47. THE Witneſſes having been re-examined, a Copy of the Proofs brought againſt the Criminals is uſually given to them, that they may the ſooner determine, whether they will give up the Cauſe, or ſtand Trial, and in this Caſe the following Things are obſerved in this Court. Firſt, that the Depoſitions be literally given to the Criminal as made by the Witneſſes, that he may fully underſtand what every Witneſs hath depoſed againſt him, ſo that 'tis not ſufficient to give them him in ſhort. Secondly, The Depoſitions are not to be confounded or mixed, but each of them to be diſtinctly and ſeparately from others given him in Writing, that the Criminal may the better underſtand them, and ſeverally anſwer them, and thus be able the better to defend himſelf. Thirdly, The Names of the Witneſſes are not to be given him, nor their Surnames, nor any Circumſtances by which he may diſcover who they are, becauſe ſuch Diſcovery might occaſion great Danger either to the Witneſſes or the Inquiſition, upon account of the Power of the Perſons accuſed, by reaſon of their Family, Riches, or Malice. The ſupream Senate determined the ſame, with reſpect to the Anſwers of the Witneſſes to the Interrogatories of the Criminals, ordering they ſhould not be given them, if the Witneſſes were in Danger of being diſcovered hereby. For the ſame Reaſon they add the Year and Month, but not the particular Day when the Witneſſes affirm the Crime to be committed. Thus alſo the Place is added

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in general, but not the particular Houſe or Room where. All theſe Things they carefully avoid, that the Criminal may not by any Means diſcover who are the Witneſſes or Informers againſt him. This they will in no wiſe ſuffer. For as they generally ſay, Secrecy is the very Sinew of the Inquiſition. Hence 'tis eaſy to infer, that many of thoſe Interrogatories which are formed by the Advocates of the Criminals, are not allowed, becauſe they muſt relate to ſuch Circumſtances, which, if known to them, would eaſily diſcover to them the Witneſſes. However the Advocates, bound to the Inquiſition by Oath, muſt form them, that they may ſeem to do ſomething for the Criminals, when in Reality they do nothing, and deceive the miſerable Priſoners, with the vain Hopes, what they will do in their Defence, when nothing at all is done for them; for whilſt the Witneſſes or Informers are concealed from them, they are deprived of the beſt and moſt neceſſary Means of their Defence. However, this is ſtrictly prohibited by ſeveral Edicts of the Popes, and Inſtructions of the Inquiſitors.

Thus *Innocent* IV. expreſsly decreed in a Bull publiſhed *An.* 1253. *'Tis our Pleaſure that the Names both of the Accuſers and Witneſſes of heretical Pravity, ſhall by no Means be diſcovered, becauſe of the Scandal or Danger that may follow upon ſuch Diſcovery, and yet nevertheleſs let the Depoſitions of ſuch Witneſſes be entirely credited.* The Council of *Biterre* hath decreed the ſame, Cap. 10. *But beware of this, according to the wiſe Pleaſure of the Apoſtolick See, that the Names of the Witneſſes be not diſcovered by any Sign or Word.* Formerly *Boniface* VIII. *c. Statuta. §. Jubemus, de hæret. l.* 6. granted that the Names of the Witneſſes and Accuſers might be diſcovered, when there was no Danger. *When there is no Danger in the aforeſaid Caſe, let the Names of the Witneſſes and Accuſers be made known, according as is uſual in other Trials. But in all theſe Things we command both the Biſhop and Inquiſitors to act with a pure and cautious Intention, and not to ſuppreſs the Names of the Accuſers or Witneſſes, by pretending Danger where there is none; nor on the other hand, to ſay there is no Danger, when in Reality there is. And let them charge this upon their Conſciences.* And this was ſometimes obſerved, as Fol. 131. appears from the Sentences of the *Tholouſe* Inquiſition, in the Sentence of *William Cavalerius* of *Cordua*, who having revoked the Confeſſion that had been drawn from him by Torture, is ſaid to have been convicted by Witneſſes. *And the Depoſitions againſt him being diſcovered to him, and read to him plainly, and in his own Language, and the Names of the Witneſſes depoſing againſt him expreſſed,* &c. But now they think there is always Danger in this Diſcovery, and therefore they never publiſh the Names or Perſons of the Witneſſes, becauſe they believe, after ſuch Diſcovery, they ſhall never find any Perſons willing to become Informers againſt Hereticks. There is alſo extant an Apoſtolick Brief of *Pius* IV. concerning this Affair, beginning, *Cum ſicut.*

In *Spain* alſo 'tis commanded not to diſcover the Witneſſes Names, by the *Seville* Inſtruction, *An.* 1484. c. 16. *In like manner, becauſe it appears, and is certain, upon legal Information, that if the Names and Perſons of the Witneſſes, who depoſe in the ſaid Crime of Hereſy, be diſcovered, they may incurr great Damage and Hazard, as to their Perſons and Effects; for Experience hath demonſtrated,*

*and doth demonſtrate that ſome Witneſſes have been killed, or wounded, and evil treated by Hereticks on the aforeſaid Account, and conſidering eſpecially that there is a great Number of Hereticks in the Kingdoms of* Caſtile *and* Aragon, *their Lordſhips have decreed, that the Inquiſitors may refuſe to diſcover the Names or Perſons of the Witneſſes who have depoſed againſt Hereticks, becauſe of the grievous Damage and Hazard aforeſaid, that the Witneſſes are expoſed to when their Names are declar'd.*

The ſame Proviſion is made by the *Madrid* Inſtruction, *An.* 1561. *c.* 72. *Altho' in other Tribunals the Judges always bring the Witneſſes and Criminals Face to Face, in order to diſcover whether the Offences are real; this ought not to be allowed, neither is it uſually practiſed in Trials before the Inquiſition; becauſe, beſides, that hereby Secreſy is broken, which is ever enjoined with reſpect to the Witneſſes, 'tis known by Experience, that when ever this is practiſed, it is attended with no good Effect, but rather with Inconveniencies.* And in the Inſtruction of *Seville*, An. 1484. c. 16. *When the Proof is made, and the Witneſſes re-examined, the Inquiſitors muſt ſhew their Evidence and Depoſitions, but ſuppreſs and keep ſecret their Names, and thoſe Circumſtances by which the Criminal accuſed may come to the Knowledge of the Witneſſes.* But in the *Madrid* Inſtruction. *An.* 1561. *cap.* 32. 'tis commanded, that when the Depoſitions are publiſhed, the Month and Year, which the Witneſſes ſwear to, muſt be added, but not the Day; and in like Manner the Place and Time when the Offence was committed.

De *Catbol. Inſtit.* t. 64. §. 26, &c. And this is the Cuſtom at this Time in *Spain*, as appears from *Simancas*. "After this the Evidence of the Witneſſes muſt be ſhewn, and a Copy of it "granted to the Criminal, thoſe Circumſtances only omitted, by which he "might eaſily underſtand who they are, that have given Evidence againſt "him. Hence it is that they don't let him know neither the Hour or Day "in which the Witneſſes ſay the Crimes were committed, unleſs poſſibly the "Criminal ſhould demand it to make his Defence. Likewiſe another Copy "of the Depoſitions muſt be written out by the Secretaries, and examined "and corrected by the Inquiſitors, and another Copy be inſerted in the Acts "of the Proceſs. Beſides, the Copy of the Evidence muſt be given to the "Criminal in ſuch a Manner, as that he may plainly underſtand, whether the "Witneſſes depoſe of what they have heard from others, or of thoſe Things "they have ſeen themſelves." 1 *Inſtruct. Hiſpal.* c. 16.

§. 27. "In this Publication of the Evidence, the Names of the Witneſſes muſt "not be diſcovered to the Criminal.

§. 28. "Hence it is, that in the Crime of Hereſy, the Criminal muſt not be ci-"ted, when the Evidence is ratified, leaſt he ſhould know the Witneſſes, "even altho' in all other Crimes the Criminals are to be cited to ſee the Wit-

§. 29. "neſſes. Thus alſo in all other Crimes the Names of the Witneſſes are given "to the Criminals, that they may refute them, and ſhew their own Innocence; "and this ought always to be done, even altho' the Proceſs be carried on by "Inquiſition, leaſt by concealing the Names, Occaſion ſhould be given to "wicked Perſons of defaming others, and by denying them the Means of "their Defence, of giving falſe Evidence againſt them. For no Man ought

"to

" to be denied the Means of defending himſelf. This ought more eſpecially §. 30.
" to take place in Inquiſitions and Viſitations carried on againſt Judges and
" their Miniſters. For they are placed as a Mark to be ſhot at, and are not
" capable of pleaſing all, becauſe they are bound by Office daily to repri-
" mand many engaged in Law-Suits to impriſon them, baniſh them, fine,
" condemn, and ſometimes puniſh them with Death."

But if any one now ſhould preſume, without a manifeſt Neceſſity, and unleſs there is no manner of Danger, raſhly to diſcover the Names of the Witneſſes, Accuſers, or Informers, he would act, according to *Pegna*'s Mind, very imprudently, and, for what he knows, fall into mortal Sin; becauſe he would act againſt ſo many Decrees of Popes, and againſt the received Cuſtom of the holy Office, which, though not ſupported by any Law, yet being a commendable, approved, and legally preſcribed Cuſtom, hath the Force of a Law. *Com.* 124. *in part.* 3. *Direct.*

And tho' the Criminal inſiſts, and demands, that he be allowed to make his Defence, according to the Courſe of the Law, and by Conſequence that the Names of the Witneſſes be ſhewn him as well as their Depoſitions, he is not to be heard. Thoſe who are called new Chriſtians in *Spain*, never could obtain it, tho' they uſed their utmoſt Endeavours for it. *Ludovicus a Paramo* tells us, that in the Reign of *Charles*, who ſucceeded his Grandfather *Ferdinand*, the new Converts offered 800000 Pieces of Gold to the King, if he would order the Witneſſes to be made known in the Tribunal of the Inquiſition. And when the young King, who was but 18 Years old, was greatly tempted by ſo vaſt a Sum of Money, Cardinal *Ximenes*, Inquiſitor General, by ſetting before him the great Danger of ſuch Witneſſes, and the Damage that would hereby accrue to the Church, wrought upon him to deſpiſe that Offer. *l.* 2. *t.* 2. *c.* 5. *n.* 4.

But when the Perſon accuſed cannot particularly defend himſelf upon account of the ſuppreſſing the Names of the Witneſſes, but can only conjecture in general, not being able to make any tolerable Gueſs, 'tis recommended to the Prudence of the Inquiſitor, to take ſuch proper Meaſures, as that he may know, whether the ſaid Deponents and Witneſſes are the mortal Enemies of the Perſons accuſed or not.

*Eymerick*, in the third Part of his Directory of the Inquiſitors, deſcribes to us ſix Ways of giving a Copy of the Proceſs to Perſons accuſed of Hereſy, ſuppreſſing the Names of the Accuſers, by which 'tis evident, that this one Thing is determined by the Inquiſitors, *viz.* to condemn the Priſoners as guilty, right or wrong, by uſing various Arts and Impoſtures, and eſpecially by denying them the principal Means of their Defence.

The firſt Method is, to exhibit the Names of the Informers, not in the Copy of the Proceſs, but in a ſeparate Paper, nor in the Order in which they depoſe; but in ſuch a Manner as that he who is the firſt Informer in the Copy, ſhall be the ſixth or ſeventh in the ſeparate Paper; that by thus changing the Order of the Names, the Perſon accuſed may not know what every one depoſes. 119 & ſeq.

The ſecond is, to give a Copy of the Proceſs to the Perſon accuſed, and in another Paper the Names of the Deponents, mixing with them the Names of ſome other Perſons, who have never depoſed againſt him in that Affair, that ſo he may object againſt this and the other, and yet never know who hath depoſed againſt him. But theſe ways are greatly diſapproved of, and but ſeldom practiſed, becauſe they can't be of much Service to him that is accuſed, becauſe he can't hereby know who depoſed this and the other Thing againſt him; and may be greatly hurtful to the Accuſers; becauſe the Paper it ſelf makes it certain that the Criminal is accuſed by ſome one of them, and being uncertain by whom, he may form a Reſolution againſt thoſe who have never depoſed againſt him, or whoſe Depoſitions againſt him are true, or who have depoſed in his Favour. And thus he may lay Snares for them, and bring them into very great Danger, which they carefully provide againſt.

The third Way is, that the Perſon accuſed is interrogated when he is examined, at the End of his Confeſſion, and before the Copy of the Proceſs is granted him, whether he remembers that he hath any mortal Enemies, who, laying aſide the Fear of God, may charge him falſely with heretical Pravity; ſo that without farther thinking, and before he ſees the Depoſitions of the Witneſſes, he may anſwer either that he doth not remember that he hath any ſuch Enemies, or that if he doth call any ſuch to mind, he may name them as they occur to him.

Campeg. in Zanch. c. 13.

If he ſays he hath no ſuch Enemies, the Inquiſitor may charge him to think well upon the Matter, and allow him a convenient Space of Time to conſider of it, and to write down their Names if he remembers any, and thus deſcribed, to exhibit them to the Judge with the Notary and Witneſſes. The Judge muſt cauſe all theſe Things to be inſerted in the Acts, *viz.* that ſuch a one, *&c.* appeared ſuch a Day, *&c.* before the Inquiſitor, *&c.* and gave in a certain written Paper, containing as underwritten, which muſt be inſerted at length. After which the Judge gives him his Oath, and asks him whether that be his Writing, and written with his own Hand? Likewiſe, whether he affirms that all and ſingular the Matters contained in it are true? Likewiſe, whether all and ſingular the Perſons, there deſcribed by Name, are his mortal Enemies? Likewiſe, concerning the Time, Riſe, Cauſe or Occaſion of the Enmity? Likewiſe, whether beſides the before-named, he hath any other Enemies, and whom, and what the Cauſe and Time of the Enmity? Again, whether after ſuch Enmity contracted or ariſen, he hath ever made uſe of them as Evidences for him in any Civil or Criminal Cauſe? To theſe other Interrogatories may be added at Pleaſure, as the prudent Judge ſhall think proper, from the Anſwers given to the Premiſes, and other reaſonable Circumſtances; which being well conſidered, and diligently examined, it will be eaſy to diſcover whether the Enmity pretended be real or not. But even here they are particularly cautious, that whilſt they are thinking of Methods to find out the Enmity of the Witneſſes, the Criminals may not come to the Knowledge of them. Theſe Things almoſt agree with the Words of the Biſhop of *Albano*, in which he preſcribes what the Inquiſitors muſt do in ſuch a Caſe.

Caſe. *Moreover, let the Inquiſitors inquire from the Perſon againſt whom they are to proceed, whether he hath any mortal Enemies, or certainly ſuſpected to be ſo, who, thro' Hatred, might ſwear againſt him, and let him put down their Names in Writing, whom he ſays he hath Reaſon legally to ſuſpect; and let them proceed and receive other Witneſſes againſt him, and yet nevertheleſs they may receive ſuch ſuſpected Witneſſes if they judge it proper.* And a little after he adds, *And altho' the Witneſſes, who are ſaid to be ſuſpected, or found to be Enemies, are not to be believed, unleſs there be any Thing that may legally ſupport their Evidence.*

The fourth is, that the Perſon accuſed, in the End of his Confeſſion, before he is allowed to make his Defence, ſhould be interrogated concerning thoſe Witneſſes who have depoſed the moſt heinous Things againſt him, as tho' they were accuſed themſelves, after this Manner. Do you know ſuch a one, naming one of the moſt conſiderable Witneſſes? If he ſaith he doth not, he can't reject him in his Defence as a mortal Enemy, having declared upon Oath he did not know him. If he anſwers, that he doth know him, he is interrogated, whether he knows, or hath heard that he hath ſaid or done any Thing againſt the Faith? Then he is asked, whether he is his Friend or Enemy, and preſuming that he will anſwer, His Friend, that his Evidence for him may be admitted, he can't after he hath ſaid ſo, reject him as a mortal Enemy. *Eymerick* is for uſing theſe two Methods but ſeldom, becauſe, tho' not at all dangerous to the Deponents, they are prejudicial to the Accuſed. But yet he approves that the latter ſhould be uſed againſt cavilling and cunning Perſons, and ſays that he himſelf hath ſometimes, tho' ſeldom, taken this Method againſt ſuch Perſons, whereby, as the Apoſtle ſays, *being cunning, he caught them by Guile.*

*Camillus Campegius* adds, if he anſwers, that he doth not know that he hath ſaid any Thing againſt the Faith, the Inquiſitor muſt not omit to ask him, whether he be his Friend or Enemy? If he anſwers, his Friend, but that he would not be ſilent even on this Account, but would come in Evidence againſt him, if he knew that he had offended againſt the Faith, he can't object againſt him any more in this Cauſe as a mortal Enemy. For this is to be remarked, that he who once allows a Witneſs, can never after reject him. *In Zanch. c. 13.*

The ſame *Campegius* adds another Way, *viz.* the Inquiſitor asks the accuſed Perſon in his firſt Examination, what he thinks to be the Reaſon of his being apprehended or impriſoned? Likewiſe, who he ſuſpects to be his Accuſers? And if he particularly names any, he is asked, why he ſuſpects them rather than others? To which Queſtion perhaps he will anſwer, by aſſigning, as the Reaſon or Cauſe, Hatred, a Law-Suit, or Quarrel, or ſome like Matter. After this the Inquiſitor asks him again, whether he hath any other Enemies, and who they are, and of the Time, and Occaſion of their Enmity, as above. He asks him again, who were preſent, when the Perſons he rejects as Enemies, aſſaulted or wounded him, and the like, and by whom he can be informed of the Reality of ſuch mortal Enmity. After this the Inquiſitor diligently conſiders his Anſwers and Aſſertions, and receives Informations from religious Perſons concerning the Credit of the Witneſſes, in order to find

out

out the Truth, and if he finds that the Witneſſes are juſtly charged with mortal Enmity, he muſt conſult the Laws, Doctors and Counſellors, and then act as he ſees fit.

The fifth is, to give the Perſon accuſed a Copy of the Proceſs, ſuppreſſing the Names of the Deponents, ſo that when he ſees the Depoſitions, he may conjecture who it was that depoſed ſo and ſo againſt him. On this ſometimes he names ſeveral as his mortal Enemies, aſſigning the Reaſons of it, and producing his Witneſſes. If he gueſſes at any, the Inquiſitor enquires the Cauſes of the Enmity; if they are not ſufficient, he rejects them; if they are, he examines the Witneſſes privately, who, upon not giving legal Proof are rejected. This is performed with the Advice of the Learned. And this Method is generally obſerved.

The ſixth is, that when the Perſon accuſed ſays, upon giving him a Copy of the Proceſs, that he hath many mortal Enemies, names them, and aſſigns the Reaſons of ſuch Enmity, the Dioceſan and Inquiſitor hold a Council of Divines and Lawyers, cauſe the whole Proceſs to be read over by the Notary, diſcover to them the Names of the Witneſſes and Deponents, and oblige them by Oath, or under Penalty of Excommunication, not only to give ſound Advice, but alſo to obſerve perfect Secreſy. After this 'tis debated amongſt them, whether they fully know the Perſon accuſed, and the Witneſſes, and whether there is mortal Enmity between them? If they fully know them, their Counſel and Advice is ſtood to, and whoſoever are adjudged by them to be mortal Enemies, are rejected from giving Evidence; and thoſe who are adjudged not to be ſo, are admitted. If the Counſellors do not fully know the Perſon accuſed and the Witneſſes, two, three or four Perſons of Reputation, well acquainted with the Criminal, are choſen by their Advice, out of the City, where the accuſed Perſon dwelt. One of theſe at leaſt, or two, muſt be Pariſh-Prieſts, and another, if it can conveniently be, a Religious, and the others Layicks, reputable Men, zealous for the Truth. Theſe are ſecretly called together by the Biſhop and Inquiſitor, and being obliged to ſpeak the Truth by Oath, or under Penalty of Excommunication, are interrogated, concerning the mortal Enmity or Friendſhip of the Perſon accuſed, and the Witneſſes. The Biſhop and Inquiſitor entirely acquieſce in their Judgment, ſo that after they have well and carefully conſidered the Matter amongſt themſelves, they reject from being Evidences ſuch as theſe Perſons ſay and prove to be the Accuſeds mortal Enemies, and admit theſe which they ſay are not. This is the uſual Method, and ſeems to agree with the Determination of the Council of *Biterre*, Cap. 10. *But let Care be taken of this, as the Apoſtolick See hath carefully determined, that the Names of the Witneſſes be not diſcovered by any Act or Word. But if the Perſon, under Inquiſition, inſiſts on it, and ſays that poſſibly he may have Enemies, or that ſome Perſons have conſpired againſt him, let the Names of ſuch Enemies or Conſpirators, and the Occaſion and Truth of ſuch Enmities and Conſpiracies be ſo drawn out of him, as that the Safety of the Witneſſes, and the Perſons alſo to be convicted, may be provided for.*

And

And in order the more effectually to prevent all Danger to the Witneſſes, which may ariſe from their being known, *Camillus Campegius* adviſes, not only to ſuppreſs their Names, but even all Circumſtances that may tend to point out or diſcover them. For he ſays he hath oftentimes ſeen that the granting ſuch a Copy hath given Riſe to Enmities, Hatreds, Wounds and Death; and ſometimes, that thoſe under Inquiſition, falſely imagining a Perſon to have depoſed againſt them, who hath not, nor ſaid or did any Thing againſt them, have notwithſtanding, thro' ſuch a falſe Perſuaſion, contrived not only greatly to injure him, but even his Deſtruction. Thus it happened at *Ferrara*, and at other Places, as he ſays he was credibly informed. And therefore he adviſes the Inquiſitors, to proceed very cautiouſly in this Affair, and ſo to defend the Catholick Faith, as to ſecure the Lives of the Witneſſes. For he ſays there are few to be found, who are willing to inform or depoſe in this Cauſe of Hereticks, and that if the Safety of the Witneſſes ſhould be endangered by the World, he imagines there would not be ſo much as a ſingle Informer.

When any juſt Exceptions are objected againſt the Witneſſes, the Criminal is admitted to prove them. But his Witneſſes are ſo cautiouſly examined, as if poſſible to prevent their knowing who the Witneſſes againſt the Criminal are. And, in order to this, they are interrogated not only concerning the Enmity or Conſpiracy of the real Witneſſes againſt the Criminal, but of others alſo who are not Evidences againſt him.

But here I cannot omit, what *J. Royas* ſays, "That by ſuppreſſing the Names of the Witneſſes, Criminals are deprived of the full Means of making their Defence, and by Conſequence it muſt be very imperfect and maimed. For which way can the accuſed Perſon, kept ſecretly in Jayl, and deprived of the Comfort and Aſſiſtance of his Friends and Relations, and Procurators, either object the Defects of the Evidence, or the juſt Exceptions againſt the Witneſſes, if he is ignorant of their Names, if they ſhould happen to be his Enemies, or Criminals themſelves, or infamous, or excommunicated, or otherwiſe uncapable? For, in ſo heinous a Crime, puniſhed with all Kinds of Puniſhments, *viz.* Excommunication, Forfeiture of Eſtate, the Delivery of the Perſon to the ſecular Arm, his own and his Family's perpetual Infamy, ſtronger Proofs are neceſſary than in other Crimes. Nor can it be raſh to aſſert, that the Witneſſes, whoſe Names are not diſcovered, cannot be, as to the Criminal, above Exception; becauſe he cannot object any Thing againſt them, when he doth not know them. They only are ſaid to be beyond all Exception, who cannot be rejected as Witneſſes by any juſt Exception made againſt them; and therefore, as in this Caſe, one ſolemn Uſage of the Law is over-ruled by ſuppreſſing their Names, there is no Room to urge againſt them Crimes, Defects, and Objections. But afterwards, as I conſidered the Words of the Extravagant of *Innocent* VI. *That full Credit ſhall be nevertheleſs given to what ſuch Witneſſes ſay*, I am, upon this Account, ready to recant. However, in my poor Opinion, I ſhould not dare to condemn any one if there were two" *Part* 2. *Aſſert.* 4.

" two legal Witneſſes only, in ſo grievous a Crime, upon ſo maimed and im-
" perfect a Defence by the Criminal, but ſhould follow the Opinion of *Haſti-*
" *enſis*, as the more equitable, who determines, that two Witneſſes only are
" not ſufficient to prove the Crime of Hereſy, but that three or more are re-
" quiſite, unleſs the Perſon accuſed be one of an ill Character or Reputation,
" and there be other Circumſtances concurring againſt him, in which Caſe
" the common Opinions of the Doctors may be followed.

" However, 'tis the Judgment of moſt, that the Cuſtom obſerved in re-
" producing the Witneſſes, and examining them in full Judgment before the
" Inquiſitor and two religious Perſons, according to *Cap. ut officium*, §. *verum.*
" de hæret. l. 6. & *Inſtruct. Tolet.* c. 14. abundantly ſupplies the other Defect
" of not exhibiting the Names of the Witneſſes, when their Evidence is given
" in. But in my Judgment they are greatly miſtaken; becauſe this Omiſſion
" is in an eſſential Point of Law, and the Cuſtom of examining before theſe
" religious Perſons is, as Experience teaches, of little or no Effect. For 'tis
" too common with the Generality to perſiſt in what they affirm or deny,
" whether true or falſe, and they think it Advantage enough to have their
" own Wills".

Since therefore they are ſo exceeding cautious not to diſcover by any Means the Informers or Witneſſes to the Criminals, 'tis evident they are not brought before, or confronted with one another, that they may be heard againſt, and what they ſay and anſwer be oppoſed to each other. *Carena* teaches us, that Perſons are ſeldom confronted in the holy Office, and that 'tis never done in the ſupream Tribunal of the City, unleſs the Cauſe be fully known, and the Cardinals ſupream Inquiſitors interpoſe by their Decree, who uſually determine, whether or no any Danger may accrue to the Witneſſes and Criminal by being confronted. But becauſe ſometimes it happens in the holy Office, that the Criminal muſt neceſſarily be ſeen and pointed out by the Witneſſes, this is done not by openly confronting them, but by making the Witneſſes look through the Crevices of the Door of ſome faſtened Room, where the Criminal is put, in Company of ſome other Perſons alike in their Dreſs, Stature, and Face. This *Carena* ſays was practiſed formerly in the Inquiſition at *Cremona*, according to the Command of the ſacred Congregation, where a certain Regular, who had contracted Matrimony, was thus viewed and pointed out, notwithſtanding his Confeſſion, that the Sentence of the Nullity of his Marriage might be more ſafely pronounced.

P. 3. t. 7. §. 6.

CHAP.

## CHAP. XXI.

### *How the Articles and Witneſſes for the* CRIMINAL *are produced and examined.*

WHEN the Criminal hath received a Copy of the Evidence and Proofs againſt him, if he inſiſts on his Defence, a certain Term is granted him to exhibit the Articles by which he would prove his Innocence. This Term is not fixed to any preciſe Day, but left to the Pleaſure of the Judge, who can grant him more or fewer Days, as he thinks fit. And becauſe the Defence of the Criminal conſiſts of three Parts, *viz.* in denying the Fact, or diſabling the Witneſſes, or proving his good Life and Behaviour, his being a good Chriſtian or Catholick, the Articles to be proved are diſpoſed into Method, according to the aforeſaid Diviſion. But yet the prudent and Catholick Procurator or Advocate muſt conſider his Oath, and both inſert in the Articles the Things which he believes to be true, juſt as they have been ſuggeſted to him by the Criminal, he is to defend, and continually admoniſh him ſimply to confeſs the Truth. Pegna, *l.* 2. *c.* 48.

At the End of the Articles produced by the Criminal, the Names of the Witneſſes by which he would prove his Innocence, are put down, and the particular Article upon which he would have each Witneſs examined, ſpecified. For as it can't eaſily happen that any ſingle Witneſs ſhould know all the Matters contained in all the Articles, therefore to prevent the Inquiſitor, or he to whom the Inquiſitor commits the Examination, the Trouble of being forced to gueſs who knows the Contents of ſuch and ſuch an Article, or of examining all the Witneſſes upon every Article, 'tis particulary ſhewn, that ſuch a Witneſs muſt be examined upon ſuch and ſuch an Article, and ſo of the reſt. By ſome he endeavours to prove, that the Perſon who he imagines hath depoſed againſt him, is his mortal Enemy; by others, that he hath lived a good Life, and ſo on. *c.* 49.

If after the Articles have been produced and admitted, the Criminal will add one or more additional Articles to them, the Inquiſitor may admit them as well as the firſt, becauſe 'tis not expreſsly prohibited by Law. In forming theſe Articles, a ſkilful Advocate or Procurator muſt conſider thoſe Things, which may either remove or extenuate the Crime, *i. e.* prove the Falſhood of the Accuſation, or extenuate the Guilt by proper Circumſtances; as, whether the Perſon was mad or drunk when he ſaid it, of which more hereafter.

After the Criminal hath once produced and named his Witneſſes, the Inquiſitor may, if he ſees fit, and knows there is no Fraud or Deceit, allow the Criminal to name others afterwards, and admit them.

*Cap.* 50. When the Witneſſes thus produced by the Criminal have depoſed before the Inquiſitor, a Copy of their Depoſitions is given to the Procurator of the Exchequer, who, in his Turn, exhibits his Interrogatories upon them, that the Witneſſes brought by the Priſoner in his Defence, may be examined upon them. And here, juſt as the Criminals Advocate doth, he asks abundance of Queſtions about the Witneſſes Perſon, Condition of Life, and whether they know the Criminal, or are any ways a-kin to him? and the like. Beſides this he is asked, How he came to put himſelf upon this preſent Examination? Whether any Body deſired him to do it? And who? With what Words? And what he the ſaid Witneſs anſwered? Whether the Articles upon which he was to be examined, were ſhewn him? Or whether he hath been otherwiſe inſtructed what to depoſe? Whether any Thing hath been given, promiſed, or forgiven him, and what? Whether he expects any Advantage by his preſent Depoſition, or by the Delivery of the Priſoner out of the Jayl of the holy Office, and what? To theſe he adds others ſuitable to the Affair, and thus running over every Article produced by the Criminal, he demands that his Witneſſes be interrogated upon each of them.

*Cap.* 52. The Procurator of the Exchequer of the ſupream Senate of the general *Roman* Inquiſition, uſually demands at the End of his Interrogatories, that the Inquiſitor, who is to examine the Witneſſes, will form other proper Interrogatories, as the Matter ſhall require, and the Anſwers of the Witneſſes ſhall make neceſſary. For it often happens, that as the Witneſſes are examining, ſuch Things are ſaid by them, as give Occaſion to new Interrogatories, ſo neceſſary and ſuitable to the Caſe as tends very much to diſcover the Truth.

'Tis ſometimes the Cuſtom, as *Pegna* tells us, for the Procurator of the Exchequer of the holy Inquiſition, at the End of his Interrogatories, to put ſuch an Interrogatory as this againſt a Criminal to his Witneſs. Whether he knows, or hath heard it ſaid, that the ſaid *N.* in the ſaid City of *N.* was accounted as one ſuſpected of Hereſy, and a Man of an ill Character, Opinion and Fame, in Matters relating to the holy Catholick Faith? If he anſwers Yes, he is aſked how he came to know this, and muſt name the Errors and Hereſies, who were Witneſſes with him, at what Time, what the particular Place, all which he muſt particularly relate. If he anſwers No, he is interrogated, How 'tis poſſible that the ſaid *N.* ſhould be accounted as one ſuſpected of Hereſy, and otherwiſe of evil Life, Condition and Fame, in Matters appertaining to the holy Catholick Faith, and yet he the ſaid Witneſs ſhould be ignorant of it? *Pegna* adds, that the ſecond Part of this Interrogatory ſeems to him very dangerous, and proper only to invalidate the Evidence of the Witneſs for the Criminal. For if ſuch Witneſs ſhould anſwer, 'tis poſſible that *N.* may have been ſuſpected of Hereſy, and yet that he might be ignorant of it, his Evidence would be weakned. And altho' ſome Doctors greatly admire ſuch an Interrogatory, and ſay that 'tis a moſt excellent and admirable one, and what will invalidate the Depoſitions of almoſt all Witneſſes for the Criminal, yet he is rather of Opinion, that if ſuch an Interrogatory ſhould be

put

put by the Procurator of the Exchequer, it ought not to be allowed by the Inquiſitor; leaſt if an ignorant Witneſs, which almoſt all the common and vulgar People are, ſhould anſwer, it was poſſible, and really is ſo, the ſame Procurator of the Exchequer, after the Proceſs is ended, and the Proofs examined, ſhould by ſuch a Caution ſhake the Credit of all the Proofs urged in Behalf of the Criminals.

If there is any Reaſon to doubt of the Faithfulneſs, Conſtancy or Silence of any one of the Witneſſes, *viz.* that, if diſmiſſed after his Examination was ended, he would confer with any other Witneſſes to be examined, he is uſually kept in the holy Office till after their Examination. But if he be an honeſt Man, of good Condition and Reputation, and in no Danger of diſcovering any Thing he hath acknowledged, he is immediately diſmiſſed after his Examination.

No Copy of the Depoſitions is or ought to be given before the Examination is finiſhed. But if after the Examination of ſome, the Criminal declares that he renounces any farther Examination, a Copy may be given him.

Altho', after the Publication of the Evidence, Witneſſes are not to be admitted upon the ſame Articles, or others contrary to them, yet in the Cauſe of Hereſy they are always to be allowed, whether it be for or againſt the Criminal; becauſe, as this Publication is done in private, there can be no Suſpicion of the Witneſſes being corrupted in theſe Cauſes. Simanc. *tit.* 64. §. 50.

It often happens that the Witneſſes to be re-produced, or otherwiſe examined, are abſent from the Place in which the Action is carried on againſt the Criminal, and therefore there muſt be a Commiſſion to examine them, or their Examination muſt be committed to ſome proper Perſon. And altho' in Criminal Cauſes ſuch Commiſſion for examining diſtant Perſons is not allowed, the Judge himſelf being to interrogate the Witneſſes, and to conſider with what Steadineſs, Trembling, or Countenance they ſpeak, yet ſuch Commiſſion is granted in the Crime of Hereſy, and eſpecially when the Witneſſes are in remote Places, and in other Dioceſes, and can't come to the Inquiſitors without great Expence. Pegna, *Cap.* 54.

With theſe Letters of Commiſſion there muſt alſo be ſent to the Judge or Inquiſitor, to whom the Examination of Witneſſes in Behalf of the Criminal is committed, Articles and Interrogatories, upon which the ſaid Witneſſes muſt be examined, in the ſame Manner as if they were examined by the Inquiſitor before whom the Cauſe is tried. But the Inquiſitor or Biſhop, who delegates the Examination to another, muſt not allow the Party to give Articles for the Witneſſes, before the Judge to whom they direct the Examination, but they are to be given to the Judge of the Cauſe. When the Examination is ended, the Judge, who receives theſe remiſſory Letters, muſt take Care to tranſmit to the Inquiſitor who delegates him, an authentick Copy of the original Proceſs, faithfully extracted, compared with the Original, and ſubſcrib'd by the Judge and Notary. But if it can be done without Danger of loſing it, the original Copy it ſelf muſt be ſent to him, and the delegated Judge keep the authentick Copy by him.

If whilſt the Cauſe is depending there ariſe new Proofs againſt the Criminal, or he commits a new Offence, or if there appears any Thing favourable in his Behalf; if, for Inſtance, the Informer or Witneſs, upon recollecting himſelf, comes to depoſe any Circumſtance that may extenuate the Crime; or if any other comes to diſcover any Thing that may make the Criminal's Innocence appear, they are to he received. This is eſpecially to be obſerved, in caſe any Diſcovery can be made of a Conſpiracy againſt the Criminal, or of the Subornation of the Witneſs or Witneſſes to give Evidence againſt him.

## CHAP. XXII.

### *Of the Defence of the* CRIMINALS.

*Cap.* 57. AFTER the Parties have prepared their Proofs, *Pegna* ſays, a Copy of the defenſive Proceſs muſt be delivered to the Criminal. But *Carena* obſerves, that for the Space of twenty Years, during which he acted in the Inquiſition at *Cremona*, he never ſaw a Copy of the defenſive Proceſs given to the Criminals in that Court, and he adviſes all the Inquiſitors, to act in the ſame Manner; becauſe ſometimes the Criminal produces in his Defence Witneſſes of a tender Conſcience, who rather make againſt him, and for this Reaſon Inconveniencies may ariſe from the Grant of this Proceſs. And this he ſays is the Practice of the *Spaniſh* Inquiſition. But whatever the Copy is which is granted him, he hath a Term fixed him for making his Defence, within which, if he thinks fit, he gives in his Informations as to Fact and Law, to prove his Innocence.

Simanc. *Cath. Inſt. c.* 17. Obſtinate Hereticks are denied a Defence, but Criminals, not yet convicted, are allowed to make the beſt they can. The firſt and principal Defence of thoſe who are innocent, is to deny the Crimes which are falſely objected to them. Such a one muſt conſtantly perſiſt in his Denial of them, that he may not unjuſtly condemn, and give falſe Evidence againſt himſelf. Such a one however can't prove directly by Witneſſes that he did not ſay or do ſuch a Thing; but when the Place and Time of the Crime, ſaid to be committed, is aſſigned, he may prove that he was not then and there preſent, and that therefore he did not ſay or do any Thing of which he is accuſed. And when he hath proved this by ſeveral reputable Witneſſes, he is to be abſolved.

Another kind of Defence is, if he can refute the Witneſſes, *i. e.* if he can prove they are his Enemies, or ſuborned with Money by his Enemies, or have conſpired againſt him.

But 'tis not an eaſy Matter to ſet aſide the Witneſſes in a Cauſe of the Faith, becauſe, as we have ſaid, in favour of this, infamous Perſons, ſuch as are privy to and Accomplices in the Crime, excommunicated Perſons, and

thoſe guilty of any other Crimes whatſoever, are here admitted as Witneſſes, eſpecially when other Proofs are wanting. Nothing legally ſets aſide any one from being a Witneſs but Enmity only, and that neither unleſs it be mortal. Leſſer Enmities will ſomewhat weaken the Evidence of the Witneſſes, but not abſolutely ſet them aſide. This is determined by the Councils of *Biterre*, cap. 12, 13. and *Narbonne*, cap. 24, 25. *Altho' in this Crime all Criminals, infamous Perſons, and Accomplices in the Crime, are to be admitted as Accuſers and Witneſſes, ſuch Exceptions only ſhall wholly deſtroy the Credit of the Witneſſes, which can be made appear to proceed not from a Zeal for Juſtice, but the Inſtigation of Malice, ſuch as Conſpiracies and mortal Enmities. Altho' other Crimes weaken, they don't deſtroy the Evidence, eſpecially if the Witneſſes have repented of their Crime.* Eymer. *Direct. p. 3. n. 118.*

Beſides this Exception againſt the Witneſſes, there is another kind of Defence, which the Advocates make uſe of to wipe off and break the Force of the Accuſation, *viz.* to prove that the Criminal is, and always was a Catholick, and that this evidently appears from a great Number of pious and good Works that he hath done, and that he always had an entire good Reputation amongſt all Perſons. But *Royas* ſhews that all this is trifling, and of no Weight. *Altho' ſeveral Witneſſes depoſe in general that ſuch a one is of good Reputation, their Evidence ſignifies nothing to prove him to be a Catholick, if he be convicted by two Witneſſes to have ſaid or done any Thing in particular againſt the Catholick Faith.* Simanc. *Cath. Inſt. t. 44. §. 22.* *de hæret. p. 1. n. 346.*

If the Criminal confeſſes his Offence, the Cauſe is finiſhed. If he confeſſes it, but with the Addition of ſome Circumſtance, that either takes away, or leſſens the Crime, the Procurator of the Exchequer receives the Confeſſion of the Offence, and puts it upon him to prove the Circumſtance added. Now there are various Circumſtances to be urged in Abatement, which the Advocates uſe in defending Criminals. As if Hereſy was ſpoken by a Madman, an Infant, or a decrepit old Man, except ſuch aged Perſon hath his Judgment entire. Likewiſe if it be pronounced in a Dream, or by one ſo drunk as to be quite out of his Senſes; or if by one, who, without any ill Deſign, relates the Hereſies of others; or who, by a Slip of his Tongue, drops any Thing heretical, and immediately retracts it. Or if any one errs againſt any Article of the Catholick Faith without Obſtinacy, which he is not obliged explicitely to know, and eſpecially if drawn into this Error by one whom he was obliged to believe. Very great Simplicity alſo may excuſe; alſo a Joak or Jeſt, if thoughtleſsly pronounced, and in haſte, upon a particular Occaſion, and without Deliberation, may ſometimes excuſe from Hereſy, tho' ſuch Perſons may be puniſhed as raſh and evil Speakers. Add to this, any one's ſaying or doing any Thing heretical, thro' Fear of Death or Tortures. Such a one indeed grievouſly offends, but yet is not an Heretick. For, as *Brunus* ſays, as a forced Confeſſion of the true Faith doth not make a Catholick, ſo neither is the aſſerting a forced Error to be imputed for Hereſy. Finally, ſuch Things as are uttered thro' any vehement Commotion of Mind, ſuch as Love, Jealouſy, Anger, ſuddain Grief, and the like. There is alſo a kind of Defence taken from the Command of a Superior. As when a Servant by his Maſter's Command breaks Images, or commits any ſuch Thing, he is to be Simanc. *Cath. Inſt. t. 17.* *l. 1. c. 4. §. 10.*

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*l.* 4. *c.* 8. §. 13. more gently puniſhed. *Brunus* adds, that an Heretick may object, that the Cauſe hath been already judged, and the Affair determined, which is allowed, whether Cognizance hath been taken of the Crime either by Accuſation or Inquiſition.

There is alſo another kind of Defence, *viz.* when any Perſon confeſſes ſome heretical Word, or Fact, but denies the evil Intention, and thus ſhews himſelf to be clear of Hereſy, becauſe Hereſy conſiſts properly in the Mind. When this Defence is urged, the Criminals are tortured to diſcover their Intention, and to make them fully and entirely confeſs. But this they limit in certain Caſes, and don't proceed to the Torture to find out the Intention, if there be no conſiderable Proof of the Crime beſides the Criminal's Confeſſion, and when there is juſt Ground to conclude by the Circumſtances of the Fact and other Preſumptions, that the Criminal offended with a quite different *Art.* 3. *t.* 8. §. 1. View, and not thro' an heretical Mind. *Carena* relates a memorable Inſtance of this decided before the Tribunal of the holy Office at *Granada*, by *Francis Marin de Rodezno*, Inquiſitor at *Granada*.

In the Year 1640. *Apr.* 5. on *Thurſday* in the Week before *Eaſter*, there was a Writing fixed upon the Gates of the Senate-houſe at *Granada*. In this Paper the Law of *Moſes* was greatly extolled, and the Sect of *Calvin* commended, and the moſt holy Faith of Chriſt accurſed with the moſt terrible Imprecations. The Virginity and Chaſtity of the Mother of God was denied in ſo very obſcene a Manner, as would ſcarce become a common Whore proſtituting her ſelf in a Bawdy-houſe. He alſo, with a Shew of Compaſſion, adviſed all Perſons, that they would not thoughtleſsly ſuffer themſelves to be drawn away by a falſe Religion. And finally he threatned, that he would cauſe to be deſtroyed all thoſe Regards of Worſhip and Piety, which the City of *Granada* payed to a marble Image of the Virgin, erected as a Token of Victory, and placed in an open Field over-againſt the Gate of *Elvira*, at the Entrance into the City, and commonly called, *Our Lady of Triumph*. This Writing was ſeen by two Men after the Dead of Night was over, by Twilight, and as the Paper and Character was very extraordinary, it eaſily excited their Curioſity, and altho' they were ignorant of the Contents, they took it down from the Gates. But after they had read it, and perceived the Wickedneſs and Blaſphemy of it, they carried it the next Day to the ſacred Tribunal of the Inquiſition. The Report of this Wickedneſs immediately took Air, and the Enormity and Greatneſs of the Crime alarmed the whole City of *Granada*.

One Friar *Francis Alexander* was appointed by the Senate of *Granada*, to take Care of the Worſhip of the ſaid *Lady of Triumph*, who, upon this Account, was, after the *Spaniſh* Cuſtom, called, *The Hermit*, and whoſe Habit was very agreeable to his Office. He pretended to his Neighbours that he was injured above all others by this Offence done againſt the Mother of God, and in his private Converſation in the City oftentimes inveighed againſt the Heinouſneſs of the Crime, and at laſt depoſed in a legal Manner what he had Reaſon to ſuſpect, and what he himſelf had obſerved in that ſacred Night. But as nothing came of the moſt diligent Inquiſitions that had been made into

into the Affair, there aroſe at laſt great Suſpicions and Preſumptions againſt the Hermit himſelf, after his own Depoſitions had been privately, and at Leiſure conſidered. His Depoſitions were found inconſiſtent and contradictory, tho' he made them voluntarily and freely, without any one's asking or calling upon him, and in ſome of them he was openly convicted of Falſhood. Several times he repeated ſeveral of the very Expreſſions of the ſaid Paper, ſo expreſsly and particularly, as could not poſſibly be done by any one who was not the Author of it, or at leaſt privy to it; whereas he himſelf confeſſed, after he had been informed againſt before the Tribunal, that he had neither ſeen nor read it. And when a certain Perſon ſaid before him, that it was commonly reported thro' the City that he was the Author of the Paper, when the Suſpicion was inſinuated, he immediately turned pale, and dextrouſly ſhifted the Diſcourſe to ſomething elſe, without mentioning a Word of the Affair, tho' his Countenance was obſerved to fall. The Circumſtances of the Perſon added to the Suſpicion, as he was a Man of an ill Life and Behaviour, remarkable for Hypocriſy, and guilty of many Crimes. And finally the common People were univerſally perſuaded, and all affirmed, as with one Voice, that no one elſe could be guilty of ſo heinous a Crime.

Upon this the Hermit was ordered to Jayl, and after three Admonitions made on three ſeveral Days, and upon comparing other Writings of his with the Letters of this Paper, finding that they were exactly ſimilar and perfectly alike, and that therefore the Hand and Author muſt be the ſame, he was cited by the Fiſcal of the Inquiſition, and arraigned for the Crime, and immediately ingenuouſly confeſſed it, and began to give an Account of the paſt Courſe and Manner of his Life, ſaying that he was a Religious of a certain very venerable Religion and Fraternity, a Lay Brother, and Profeſſed; but that on the Account of certain Differences and Quarrels therein he fled, and had forſaken his Religion ſeveral Years. But inaſmuch as he had not loſt his Regard to Piety and Religion, tho' he had changed his Habit, he travelled to *Jeruſalem*, and there viſited the holy Places, where, thro' a peculiar ſtrong Affection to the Mother of God, he had received certain Marks on his Arms as a conſtant Monument of his Devotion. From *Jeruſalem* he came to the lower *Pannonia*, and in the City of *Vienna* built and dedicated a Temple to *our Lady of Conception*. After this he returned back to the City of *Granada*, where he had conſecrated his Life to *our Lady of Triumph*, and the Care of her Worſhip. And that when he had found that there was nothing done towards finiſhing her Temple, and that the Devotion of the Faithful grew cool, he was excited by theſe Motives to endeavour to encreaſe the Worſhip and Veneration of that ſacred Place, and that with this View he fixed up the Paper filled with Reproaches and outrageous Affronts againſt the Mother of God, and particularly directed againſt *our Lady of Triumph*. And that he might prevent himſelf from being ſuſpected of the Crime, and throw it upon one of the *Jewiſh* Race, who are more liable to Suſpicion, he wrote in the Paper an high Encomium of the Law of *Moſes*, and an Abjuration of Chriſtianity. And finally, that no *Portugueze* might be thought guilty of this Wickedneſs, and

that

that that Nation might not come hereby into Diſcredit, he added a very great Commendation of the *Calviniſtick* Sect, to which, as he now thinks, he was moved by the Inſtigation of the Devil. For he thought that by this Means he ſhould more eaſily bring the People into a more fervent Devotion, in order to expiate the Wickedneſs of that Paper, and perſuade them to celebrate the moſt venerable, pompous, and magnificent Ceremonies in Honour of the Virgin, to finiſh her Church, and to encreaſe the Veneration and Worſhip paid her, and finally to render that ſacred Place famous for its being reſorted to by great Multitudes from that City and the neighbouring Towns. And therefore that he was ſo far from fixing up the aforeſaid Paper out of an heretical Mind, and from believing the Errors contained in it, that he did it with a quite contrary Deſign, and always intended hereby to encreaſe the Honour and Worſhip of the Virgin, as became a Man faithful to the Mother of God, a Chriſtian, and alſo a Catholick, and one born of pious and Catholick Parents.

When they had heard his Confeſſion, and examined and finiſhed his Cauſe, they did not think proper to put him to the Torture, for diſcovering his Companions or Accomplices, and whether or no he acted with an heretical Intention; becauſe many Circumſtances and Preſumptions concurred, which not only gave Reaſon to think, but notoriouſly proved that the Criminal had no heretical Intention, but that his only Deſign was to cauſe greater Veneration to be paid to *our Lady of Triumph*, that he himſelf might be held in greater Eſteem, and ſo obtain more liberal Alms. Nor did they think proper to deliver him over to the ſecular Arm, becauſe he had fixed up the Paper to bring the greater Honour to the Virgin, and becauſe as ſoon as ever his Accuſation was read over, he ingenuouſly confeſs'd his Crime; and finally, becauſe he had implored Mercy with many Tears and Signs of Repentance, and, during the Time of his Impriſonment, had undergone many voluntary Penances, macerating his Body by Whipping, Faſtings, and other Chaſtiſements, and was a Monk of a moſt venerable Religion, which had produced many Saints, whoſe Merits were ſufficient to ſupply and excuſe the Errors of others, at leaſt ſo far as to ſave them from Puniſhment. It was therefore decreed, that the Criminal ſhould come forth at a publick Act of the Faith, if there was any one near at hand; or if not, that he ſhould appear in ſome publick Church with the Marks of a Blaſphemer, with his Tongue in a Gag, that he ſhould, as one vehemently ſuſpected, be condemned to the Gallies for ten Years, and without any Stipend ſuffer perpetual Baniſhment from the City, the whole Kingdom of *Granada*, the Royal Court, and five Leagues around it; and that he ſhould be expoſed in the Habit in which he was apprehended, and whilſt his Sentence was reading with the Merits of the Cauſe, ſhould lift up his right Hand, faſtened into an Iron Collar, and eſcape Whipping, becauſe he was a Religious.

Thus we ſee that this Hermit came off with a leſſer Puniſhment, becauſe by a pious Fraud he intended to promote the Glory of *our Lady of Triumph*. But if they believe that any Thing is done to the Prejudice of the *Roman* Religion,

Religion, altho' the Criminal ſhould deny his Intention, he will find his Judges to be cruel, and void of Mercy, and that they will put him to the Torture at Pleaſure, that by the Severity of his Torments they may force from him a Confeſſion of his Intention.

## CHAP. XXIII.

### *How the* INQUISITOR *may be rejected.*

THERE are other Exceptions againſt the Judge himſelf, and thoſe are principally two, the firſt is the Refuſal of the Inquiſitor. This Refuſal is ſometimes reaſonable and juſt, ſometimes frivolous and void. But in this Tribunal many Cauſes, which are ſufficient to ſet aſide other Judges, are not admitted, but only theſe, Enmities, Conſpiracy againſt the Criminals, or ſomething like it, as a grievous Contention, whence Enmity may eaſily ariſe. Leſſer Cauſes are never allowed. Or if the Inquiſitor hath dealt hardly by the Criminal, contrary to the common Courſe of the Law. If the Inquiſitor apprehends that the accuſed Perſon will refuſe him upon this latter Account, he may give a full Deputation to ſome other Perſon before he is acquainted with his being rejected, after which ſuch Rejection is void, and the Deputation made ſtands good. If ſuch Rejection be preſented to the Inquiſitor, he may amend his Miſtake, and reduce the Proceſs to the Condition it was in, before the Injury complained of; and thus the Grievance being removed, the Reaſon of Suſpicion ceaſes, and the Refuſal of the Inquiſitor becomes void. *Direct. p. 3. n. 120.*

If he rejects him as an Enemy, or as a Friend of his Enemy or Accuſer, *Eymerick* is of Opinion, that the Matter muſt be left to Arbitrators to determine it. But now the Reaſon of ſuch Refuſal muſt be remitted to the ſupream Senate of the Inquiſition, that the Affair being ſummarily taken Cogniſance of, the Inquiſitor refuſed may be rejected, or prohibited to judge in that Cauſe, or on the contrary may be commanded to proceed. This is determined by the *Madrid* Inſtruction, *An.* 1561. *c.* 52. *If any one of the Inquiſitors ſhall be refuſed by any Criminal, if ſuch Inquiſitor hath a Colleague on the Spot, he muſt then abſtain from the Cogniſance of ſuch Cauſe, and certify the Senate of the Matter, and in the mean while let his Colleague proceed. If he hath no Colleague, let him in like manner certify the Senate, and not proceed in the Cauſe, 'till the Senate ſhall decree what ought to be done, after having ſeen and examined the Reaſons of the Suſpicion. The ſame muſt be done when all the Inquiſitors are rejected.* *Com.* 38.

## CHAP. XXIV.

### *Of the* APPEAL *from the* INQUISITOR.

*n.* 121, &c. *com.* 31. ANother Exception againſt the Judge is, to appeal from the Inquiſitor. For altho' the Emperor *Frederick*, in l. *Commiſſi nobis*, §. 7. decrees, *That all Benefit of Proclamation and Appeal ſhall be wholly denied to Hereticks, their Receivers and Favourers*, yet ſometimes ſuch Appeal is allowed to the Perſon accuſed. However, Hereticks are allowed no Appeal from a definitive Sentence, becauſe no one is definitively condemned for Hereſy, unleſs one that hath confeſſed it, or who hath been legally convicted, according to the Laws of the Inquiſition; and from ſuch definitive Sentences there can be no Appeal, in Favour of the Faith, and out of Hatred to Hereticks, leaſt Judgment ſhould be protracted. Cap. *Ut Inquiſitionis*, de hæret. l. 6. But an interlocutory Sentence is a quite different Thing, and from this Criminals are allowed to appeal, when they think they have been unjuſtly dealt with.

*De Cathol. Inſt. tit.* 6. §. 3. *Simancas* confirms the ſame. "Hereticks can't appeal from a definitive Sentence, tho' they may from all interlocutory Sentences, if it doth not yet "appear that the Criminals are Hereticks. So that if a Criminal be condemned to the Torture, or to Purgation, or to be baſtinadoed, or to a Fine, "he may appeal, becauſe it doth not appear that he is an Heretick, but only "ſuſpected; nor doth he appeal from the Law, but from the Judges, who "have pronounced Sentence according to their Pleaſure."

This Appeal muſt conſiſt of two Parts. The Grievance which the Criminal affirms he lies under, and the Plea by which ſuch Grievance is proved.

*Notab.* 18, 19. But here *Bernard Comenſis*, in his *Light of the Inquiſitors*, obſerves, Voc. *Appellatio*. "That he who offers a probable Reaſon, muſt be prepared to "prove it, to name the Witneſſes by which he intends to prove it, and to "have them ready; becauſe otherwiſe thoſe who make theſe Exceptions, "would have it in their Power to act fraudulently, which would be the Caſe "of all who would not have their Exceptions rejected, to give needleſs Trou-
*Notab.* 20. "ble to the Accuſer. He adds, that when ſuch an Appeal from an interlo-"cutory Sentence is put in, with the Reaſon ſpecified, and a Proteſtation for
*Notab.* 15. "the Aſſigning of other Reaſons, ſuch an Appeal cannot be afterwards ſup-"ported by ſuch Reaſons in Reſerve, becauſe the very Proteſtation it ſelf of "aſſigning them, would be of no Strength or Obligation. Nor can it be "ſuppos'd that any one would have the Judge pay any Regard to ſuch Appeal, "unleſs it appears to the Judge that the Appeal is valid. So that if he doth "not believe it to be good, he need not pay any Regard to it".

Some Grievances are capable of being remedied. As if the Inquiſitor ſhould not admit the accuſed Perſon to make his Defence, or hath ſingly, and by himſelf, without the Biſhop or Vicar commanded him to be put to the Queſtion. Other Grievances are irreparable, as if he hath actually made him undergo the Torture. And therefore when the accuſed Perſon alledges the Grievances,

Grievances, and again and again demands * Letters of Appeal; the Inquiſitor, after ſuch an Appeal is exhibited to him, muſt, within thirty Days, examine the Reaſons of ſuch an Appeal, and if after having taken the Advice of proper Perſons, he finds that he hath unjuſtly aggrieved the accuſed Perſon, he muſt, at the Term aſſigned, amend what hath been amiſs, remedy the Grievances complained of, and bring the Proceſs to its former State, and then proceed as before. For when the Grievance is removed, the Appeal is void.

As to irreparable Grievances, there muſt be a very cautious Procedure, nor muſt any one be put to the Torture without legal Proofs. This is taken Care of by the *Madrid* Inſtruction, *An.* 1561. c. 50. *The Inquiſitors ought eſpecially to conſider, whether the Sentence of putting the Criminal to the Torture be juſtly pronounced, and upon legal Proofs proceeding. And when they doubt of this, let them grant to the Criminal his Appeal when he demands it, becauſe putting him to the Torture is doing him an irreparable Injury, and becauſe an Appeal from the interlocutory Sentence of the Judge is allowed in the Cauſe of Hereſy. But if they have no ſuch Doubt, but rather think the Proofs reſulting from the Proceſs are legal, then let them proceed to the Torture without Delay; becauſe an Appeal, in ſuch Caſe, would be deemed frivolous. But in a doubtful Caſe the Appeal muſt always be allowed, and the Inquiſitors muſt farther conſider the Matter, nor pronounce Sentence of Torture, nor proceed to the Execution of it, till the Cauſe is finiſhed, and the Defences of the Criminal received.* For if there have been ſuch Grievances as theſe, the Proceſs can't be reduced to its former State.

If the Inquiſitor believes that he hath not proceeded unjuſtly, he aſſigns, within thirty Days, to the accuſed Perſon a certain Term, ſpecifying particularly the Place, Day, and Hour, for his having given him, and receiving from the Inquiſitor ſuch Letters of Appeal, as the Inquiſitor ſhall determine to give him. If he finds the Cauſes of the Appeal to be falſe or frivolous, or void, and that the Appellant only endeavours to eſcape Judgment, the Inquiſitor gives him what they call negative Letters, or Letters of Refutation, in which he refutes all the Reaſons alledged in Support of ſuch Grievances, and ſays, that he doth not admit, nor intend to admit the Appeal put in, and that he pays no Regard to it, nor ever intends it. This is the Anſwer he gives to him who appeals unjuſtly, which he commands to be inſerted directly and immediately after the Appeal preſented to him, and then delivers it to the Notary who preſented it. But if he finds the Grievances to be real, and unjuſtly laid on him, and to be irreparable; or if he is in doubt concerning theſe Things, he gives the Appellant what they call affirmative Letters, or Letters of *Reverence*, in which he ſays he hath proceeded juſtly; and after running thro' the ſeveral Cauſes of the Appeal, and anſwering them, at length concludes, that he hath given no Cauſe of Appeal. But that nevertheleſs for the *Reverence* he bears to the Apoſtolick See, which is appealed to, he allows the Appeal,

* *Apoſtoli.* Thoſe *Apoſtoli* were dimiſſory Letters, granted by Eccleſiaſtical Officials and Judges, to thoſe who appealed to the Pope at *Rome.*

and remits the whole Affair to the Pope, and aſſigns to the Appellant a certain Term, within which he muſt appear at the Court of *Rome* before the Pope, with the Proceſſes incloſed and ſealed up, to be delivered to him by the Inquiſitor, upon giving good Security, or under a ſafe and ſtrict Guard. This is the Anſwer he gives to him, who appeals for affirmative Letters, which he commands to be immediately inſerted after the Appeal put in, and thus delivers it to the Notary who preſented it.

If the Inquiſitor gives the Appellant negative Letters, he continues his Proceſs againſt him, to let him know, that he doth not ceaſe to be his Judge, till he is prohibited to proceed by that Judge to whom the Appeal is made. But yet from the Hour of the Appeal, he can do nothing new againſt the Appellant, till he hath delivered to him the negative Letters. But if he grants him affirmative or reverential Letters, he immediately ceaſes to be his Judge, and can take no farther Cognizance of the Cauſe, unleſs it be remitted to him by the Pope. He may however proceed againſt the Appellant in any other Cauſe, *viz.* if after having given him ſuch Letters of Reverence, he is informed againſt before the Inquiſitor for other Hereſies and Crimes.

But now the inferior Inquiſitors are not allowed to uſe this Power. In *Spain* the *Madrid* Inſtruction, *An.* 1561. *c.* 51. gives this Caution in the Affair. *If the Inquiſitors think that an Appeal is to be allowed in any Caſe, in the criminal Cauſes of ſuch Criminals as are impriſoned, they muſt ſend the Proceſſes to the Senate of the Inquiſition, without certifying the Criminals themſelves of it, and with ſuch Caution and Secreſy, that no one without the Priſon may know it; becauſe, if the Senate ſhould think otherwiſe in any particular Cauſe, it may give Order, and take the neceſſary Care about it.* But in other Provinces, and eſpecially in *Italy*, where the Appeal is admitted, the Inquiſitors conſult the Senate of the general *Roman* Inquiſition for the whole Chriſtian Common-wealth, the Cauſe being briefly and ſummarily reported to them; and if the Senate thinks fit that the Criminals ſhould be ſent to *Rome*, it muſt be done, and the Inquiſitors muſt ſend them there under good Security and ſafe Cuſtody.

## CHAP. XXV.

### *How they proceed againſt ſuch who make their Eſcape.*

*Directt. p.* 3. *n.* 130. *Com.* 33.

THUS have we given an Account of the Method of proceeding againſt a Criminal actually in Jayl. But if he abſent, or hath made his Eſcape, the Proceſs is formed againſt him after this manner. When any one is informed againſt before the Inquiſitor for being infected with Hereſy, and ſuch Perſon is not preſent in the Place where the Inquiſitor lives, but dwells in ſome other Place, within the Bounds of the Inquiſitor's Juriſdiction, he is ſaid to be abſent, but not a Fugitive. When there is any Apprehenſion of his

his Eſcape, tho' they determine that they may omit the making any verbal Citation, and proceed immediately to apprehend him, yet ſometimes ſuch abſent Perſon is ſummoned to appear on a certain Day and Place, to anſwer to ſuch Matters whereof he is accuſed. But becauſe by ſuch a Citation the Criminal may be induced to meditate his Eſcape, others adviſe, that no particular Cauſe ſhould be mention'd in this Citation, but that he ſhould be only commanded in general to appear before the Inquiſitors, to inform them of certain Matters. Likewiſe the Inquiſitor writes to the Rector of the Church, to which the Criminal is ſubject, commanding him to ſummon the Criminal before him to anſwer concerning the Faith, and to declare the Truth of himſelf and others as to the Crime of Hereſy. *Com.* 131.

This ſeems to be taken from the Council of *Biterre*, c. 3. *Let the Clergy and Laity of that Place, which the Citation belongs to, be called together by ſome Eccleſiaſtical Perſon, to whom you ſhall commit this Affair by your Letters Patents, who, in Token of his having received the Command, muſt add his Seal to the ſaid Letters, and write back by his own Letters Patents, ſigned with his Seal, how, before whom, and when he diſcharged the Order given him.* 132.

If the abſent Perſon be wholly out of the Juriſdiction of the Inquiſitor, the Inquiſitor examines the Witneſſes privately, that it may not come to the Knowledge of the abſent accuſed Perſon that Inquiſition is made againſt him. Then the Inquiſitor farther inquires, whether he will return into his Juriſdiction; if 'tis probable he will, he waits a Year or more for his Return. If 'tis probable he will not, but that he hath changed his Place of abode, 'tis at the Pleaſure of the Inquiſitor either to require the Inquiſitor or Dioceſan, whoſe Juriſdiction the Criminal is under, to ſend him to him, or elſe to tranſmit him the whole Proceſs, that he may do what he thinks proper. In *Portugal* Perſons accuſed are never turned over to another Place, but puniſhed in the Diſtrict where they are taken, whether the Crimes and Informations againſt the Criminals are ſent by the Inquiſitors of other Diſtricts.

But when any one knows that Inquiſition is made againſt him, or is actually impriſoned, and yet makes his Eſcape, to avoid the Hands of the Inquiſitors, he is ſaid to be a Fugitive. In this Caſe the Inquiſitor firſt inquires diligently, and without Noiſe, to what Place he is fled, and where he hath concealed himſelf; and if he finds out the Place, orders him to be taken up, and ſent back to him. If it be within his own Juriſdiction, he may require the temporal Lord to apprehend him, and conduct him within his Diſtrict. Yea, he may require the ſame from any other Lord, whilſt he hath him in Poſſeſſion. If he be without his Juriſdiction, he may nevertheleſs proceed againſt him, and require the Inquiſitor, in whoſe Juriſdiction he is, to cauſe him to be taken up, and ſent back to him, or ſend him his Proceſs, that he may do what Juſtice ſhall require. Thus the Council of *Tholouſe* heretofore ordered, *cap.* 8. *We ordain alſo, that any one may make Inquiſition, and apprehend Hereticks in another's Province, and let the Ballives of ſuch Places be obliged to grant them Aſſiſtance and Favour; ſo that the Ballive of the King may do thus in the Dominions of the Earl of* Tholouſe *and others, and the Earl of* Tholouſe *and others in the* 133.

*Dominions*

*Dominions of the King.* The first Instruction of *Seville*, *An.* 1484. *c.* 21. hath ordained Punishments against such temporal Lords, as do not obey the Inquisitors. *Because the most serene Kings have commanded, and Reason requires it, that Inquisition should be equally made for the Crime of Heresy, as well in the Lands of Nobles, as in their own; therefore the Inquisitors who now are, or hereafter shall be, must ordain in their Dioceses, that they may freely proceed to make Inquisition in the said Countries. But if the Nobles shall not obey the Commands of the Inquisitors, they must proceed against them for Rebellion and Contumacy, and inflict on them all the Censures and Punishments appointed by the Law.* But when Criminals are sent from one Place to another, it must be at their own Expence if they have Effects, according to the Decree of the *Madrid* Instruction, *An.* 1561. *c.* 9. The same is also observed in *Portugal.*

135. If the Inquisitor cannot find out the Place to which the Criminal is fled, he cites him personally in the Cathedral Church of that Diocese to whom he belongs, and in the Parish Church of that City, where he dwelt before his Escape, and finally in his own proper House in which he commonly lived, personally to appear within a certain Term before the Inquisitor, to answer concerning the Faith and Articles of Faith, under this Penalty, that if he doth not appear within the Term assigned him, he shall be excommunicated with the greater Excommunication.

Thus the Council of *Biterre* prescribes, cap. 14. *As to those who are absent thro' Contumacy, cause them to be solemnly cited in their Parish or Cathedral Church, and in the Places where they dwell, or have been used to dwell. And having thus put forth legal Edicts against them, and after having waited a proper Time, and having carefully considered and discussed the Acts, and having receiv'd the Advice of such Prelates, in such Matters, as you have thought fit to consult them about, under their Seal, proceed to their Condemnation, according to the Exigency of the Crimes, the Presence of God and his Gospels supplying their Absence. And if any of them are afterwards willing to return and obey, receive from them, and in general from all such who have been guilty of Contumacy and Disobedience, or of whose Escape you have Reason to be apprehensive, good Security and Bail, or cause them to be confined, if you think it more expedient.*

But in the first Council of the Prelates, probably at *Tholouse*, 'tis thus decreed of such absent Persons. *But if there are any Persons criminal, or suspected, belonging to your Inquisition, who are not present, or have not been so, and who do not take Care to appear or excuse themselves, within a competent Term peremptorily by you assigned them, and published in the Churches, proceed, without Doubt, against them, as against Impenitents. And 'tis our Sense, that all such Persons belong to your Inquisition, who either have offended within the Bounds of the said Inquisition, or have a Dwelling there, or had when the Inquisition was first made; or who have resided there upon account of any Office publick or private; or who having no fixed Abode, shall be found there when cited by you, whether they have any Security or not, if you have begun to make Inquisition against them, or have enjoined them their Purgation. For against such Impenients, or Absenters, you may and ought to proceed; excepting only, if other Inquisitors have begun to proceed against them, upon account*

*count of ſome greater or leſſer Crime committed elſewhere, or by Reaſon of their dwelling under their Juriſdiction, or for any of the aforeſaid Cauſes. For as the Inquiſition is carried on, under God, in different Places, and by different Inquiſitors, 'tis more wholeſome and ſafe, that every Criminal in the Place where he hath offended, ſhould ſtand accountable to that Inquiſitor wholly and only, by whom he was firſt begun with, for any of the aforeſaid Cauſes, without Deceit, and Danger of the Affair and of Souls. But ſo however, that the other Inquiſitors ſhall inquire out whatever they can know concerning him, and write an Account hereof to thoſe Inquiſitors to whom the ſaid Criminal ſtands accountable. For thus you ſhall all fight as one Man, and overcome.*

But that ſuch Eſcape may not go unpuniſhed, in the Perſon who being in Cuſtody for Hereſy, breaks out of Jayl, 'tis a Matter of Cuſtom rather than Law, eſpecially in *Spain*, that if he who makes his Eſcape, be of any conſiderable Reputation, and apprehended again, for Inſtance, a Nobleman, Doctor, religious Perſon, or otherwiſe a Citizen of Account, he ſhall be kept in ſtricter Cuſtody, and puniſhed more ſeverely. But if he is a mean Perſon, he is publickly whipped, and his Cauſe is to remain, and be carried on in the State it was before, but he is not to be treated for his Eſcape as one convicted of Hereſy; becauſe the breaking out of Jayl, or an Eſcape, hath nothing common with Hereſy, and 'tis rather to be preſumed that he fled becauſe tired out with his Impriſonment, or thro' Fear of falſe Witneſſes, or the Severity of his Torments, rather than from any Error of his Underſtanding. However, *Zanchinus* ſays, that a Priſoner who eſcapes, or attempts to break Priſon, ought to be eſteemed as a Convict, and condemned as an Heretick. *Simancas* on the other hand ſays, this cannot be proved by common Law, and tho' it be more plainly ordained by the royal Laws, yet in his Judgment 'tis extreamly ſevere. 'Tis uſual alſo with the Inquiſitors, as ſoon as ever they underſtand the Criminals have eſcaped, to write to the neighbouring Inquiſitors or Biſhops, or other Perſons whom they judge proper, to find out whether the Perſon eſcaped hath fled to their City, that they may take Care to apprehend him, adding in their Letter his Name, Surname, Country, Stature, Colour, and other Circumſtances, by which the fugitive Criminal may be eaſily known.

Pegna *in Direct.* *p.* 3. *com.* 35.

*c.* 10. § 3.

*tit.* 16. § 23.

But if ſuch Fugitive ſhall be found guilty of Hereſy, not only by Witneſſes, but by his own Confeſſion, and hath declared himſelf ready to abjure it, and yet eſcapes before his Abjuration, eſpecially if he be a religious Perſon, who hath himſelf preached Hereſies, he is cited perſonally to appear before the Inquiſitor at a certain Place, and within a certain Day, to abjure his Hereſy, and threatned with Excommunication unleſs he obeys. And if with an obſtinate Mind he lies under the Sentence of Excommunication for a Year, and doth not make his Abjuration, he is to be judged as an obſtinate Heretick, and delivered over to the ſecular Court. If being thus cited they nevertheleſs refuſe to appear, but ſuffer themſelves to continue under Excommunication, they are declared publickly to be excommunicated in all thoſe Churches and Places in which they have been cited, and all are commanded

*n.* 136.

under

under the Penalty of Excommunication, to avoid them as excommunicated Perſons, and to diſcover them to the Inquiſition, if they know where they have concealed themſelves. Thus the Council of *Tholouſe* hath decreed, *cap.* 2. *And if they find any Hereticks, their Believers, Favourers, and Receivers, or Abettors, let them take due Care that they don't eſcape, and be ſure to diſcover them to the Archbiſhop, or Biſhop, or Lords of the Places, or their Bailives, with all Speed, that they may receive their due Puniſhment.* *Conrad Brunus* gives a fuller Account of this Matter. "He is guilty of Contumacy, who being cited before a Judge by "three Edicts, or by one peremptory one, once for all, will not appear be- "fore the Judge by whom he is cited, and that in full Proceſs. He may be "proceeded againſt either of theſe ways. He may be either pronounced "guilty of Contumacy, or elſe legal Proofs may be taken to make out "his Crime. In the former Caſe the Perſon cited, and guilty of Obſtinacy, is "excommunicated, and if he lies under it with an obſtinate Mind a whole "Year, he is condemned as an Heretick, *&c.* In the other Caſe, the Crime "of Hereſy is to be proved againſt him, by Witneſſes, Writings, compa- "ring of Letters and Likeneſs of Hand, and other Evidences, which being "proved, he ſhall be condemned, together with the Books and Writings con- "taining ſuch Errors and Hereſies. Moreover, an abſent Heretick ſhall be "declared and pronounced an Heretick, and be excluded from Eccleſiaſtical "Communion, and deprived of all Eccleſiaſtical Dignities and Orders.

## CHAP. XXVI.

### *How the* PROCESS *is ended in the* INQUISITION.

AFter the Proceſs is thus begun and carried on, it remains that we now explain how it is finiſhed.

When all the Defences are exhibited, the Criminal preſſes to have his Cauſe diſpatched. This may and muſt be done either by the impriſoned Criminal himſelf, or by his Procurator or Advocate, and that either by ſpeaking, or by preſenting a ſhort Petition.

Simanc. t. 44. §. 26. "After this the Judges with their Aſſeſſors and Counſellors, having examined "the Proofs, ſhall conſider, and ſhall proceed according to the Merits of the "Cauſes to paſs Sentences, or to * Interlocutories, and abſolve the Innocent, "and leave the Obſtinate to the ſecular Judge, and condemn ſuch as are "ſuſpected, according to the Nature of their Crimes, Perſons and Proofs, "either to the Queſtion, or Abjuration, or Purgation, or Impriſonment, "or Baniſhment, or to a Fine; or ſhall injoin them to purge and redeem their "Fault by Faſtings, Prayers and Alms.

* *Interlocutio* is not a definitive Sentence, but the Determination of ſome ſmaller Matter in a Cauſe, till the principal Cauſe is fully diſcuſſed.

"The

" The Judges muſt alſo be very careful, generally to interrogate the Cri- §. 27.
" minals concerning their Accomplices, and of all others from whom they
" have learnt Hereſies, and who they know to be, or to have been Hereticks.
" And if they diſcover any Thing of theſe Matters, it muſt be written down
" in the Books of the Inquiſition.

" 'Tis farther provided in a certain Chapter of the third Inſtruction, that §. 30.
" all the Inquiſitors of *Spain* ſhall obſerve the ſame Order in proceeding a-
" gainſt Hereticks and ſuſpected Perſons, and as this had not been uſual, we
" drew up, ſays *Simancas*, eighty Heads, by which the Form of Proceeding
" might be always uniform and conſiſtent with it ſelf, which Heads are to be
" obſerved by all Inquiſitors, according as 'tis ordered by the general Edict
" of the Inquiſitor, printed in the Year 1561.

" Finally, There are ſeveral Heads of Inſtruction which provide, that §. 31.
" theſe Cauſes ſhall be carried on with as much Brevity as poſſible, and not
" be deferred or ſuſpended thro' any Expectation of future Proofs, becauſe
" probably there may never happen any ſuch, and in the mean while the Cri-
" minal will be oppreſſed, and his Effects be diſſipated and waſted. 3 *Inſtruct.*
" *Valdolit.* cap. 2, 3. 4 *Inſtruct. Tolet.* c. 6. 5 *Inſtruct. Hiſpal.* c. 6.

" For which Reaſons this one Thing is to be conſider'd and avoided, tho' §. 32.
" many Inquiſitors have often practiſed it, *viz.* the deferring and ſuſpending
" the Cauſes of many Perſons which have been a long while concluded, that
" they may puniſh ſeveral Criminals together. The Conſequence of this is,
" that ſuch Criminals, who have fully confeſſed their Errors, are made un-
" righteouſly to ſuffer the Puniſhment of remaining in Jayl, and of pining
" away thro' Naſtineſs, Infection and long Confinement, and which is much
" more grievous and dangerous, occaſions them to retract the Confeſſions
" they have rightly made, and never more to think of them, and ſometimes
" to deſpair and die. 'Tis therefore much more agreeable to Piety and Mer-
" cy, immediately to reconcile ſuch to the Church, who have made a full
" Confeſſion, which may be done with Solemnity enough upon ſome Holy-
" day within the Church, unleſs there be ſome juſt Reaſon to the con-
" trary."

When the Opinions of the Counſellors are heard, and the Sentence given, the Criminal is ſummoned to come and hear his Sentence. 'Tis not determined by any particular Law by what Officer he is to be cited, and therefore the Cuſtom of each Inquiſition is to be obſerved. Without ſuch Citation there can be no Sentence. This *Pegna* gives us a large Account of in his Notes upon *the Light of the Inquiſitors.*

" The judiciary Method is to be fully obſerved in almoſt all Cauſes, other- In voce
" wiſe the Proceſs is rendred void. But this is particular in the Cauſes of he- *Ordo juris.*
" retical Pravity, that in order to their being more quickly diſpatched, and
" that ſuch heinous Offences may be more ſpeedily puniſhed, the full
" judiciary Method need not be obſerved. So that they proceed herein
" ſimply, and plainly, and without the Noiſe and Appearance of Judgment.
" Neither is there any Room here for the Conteſtation of the Suit, which

" conſiſts in debating on the principal Matter on one Side, and the other be-
" fore the Judge, and the putting in Anſwers either by denying or con-
" feſſing.

" But if any Thing be omitted, which is eſſential to ſuch Trials, ſuch as
" the Citation, the Term, and the receiving the Witneſſes after Citation, and
" if the Sentences be not given in Writing, in proper Place and Time,
" with the uſual Solemnities, all is void. And this is true alſo in the Crime
" of Hereſy; for by omitting any Acts which are eſſential, the Proceſs even
" in Cauſes of the Faith would be deſtroyed.

*Simancas* hath given us a brief Account of the Manner of pronouncing Sentences, which I ſhall here inſert, becauſe it fully repreſents to us the Method which is uſually obſerved in theſe Caſes.

Simanc. a. 60. §. 1. " All the Judges are obliged to read the Sentences out of a little Book or
" Brief, and muſt do it themſelves, and not by others, unleſs they are illuſtrious
" Perſons, or in ſome Poſt of great Dignity. And therefore when the Inqui-
" ſitors have a Cauſe before them of more than ordinary Conſequence, they
" may pronounce Sentence by others, which muſt be done before the Clergy
" and People, for Inſtruction, Warning and Terror. And this was for-
" merly the Cuſtom in *Spain*.

§. 2. " The Form of a Sentence of Condemnation is this. Firſt the Nature of
" the Doctrine or Opinions aſſerted by the Criminal himſelf is declared; af-
" ter this the diligent Inquiry that hath been made into his Crimes, the Ci-
" tations, Admonitions, Confeſſions, legal Proofs, the Times given for Re-
" pentance, his Mind hardned in his Errors, his obſtinate perſiſting in them,
" and all other Things, which may tend to ſhew that the Proceſs which
" hath been carried on and obſerved againſt him hath been juſt, are enume-
" rated. All which Particulars being laid down in their Order, then fol-
" lows the Sentence it ſelf, formed as the Nature of the Crime requires, ac-
" cording to the Eccleſiaſtical Rules, containing the Condemnation of the
" Opinions, Authors, Books and other Matters.

§. 3. " Beſides, in the Sentence of Condemnation, the Time muſt be declared
" from which the Criminal fell into Hereſy, that by a bare Inſpection the
" Judge of the forfeited Effects may know from what Day his Effects are to
" be confiſcated, which is provided by a certain Letter of the Inquiſitor Ge-
" neral, for this Reaſon, that there may be no Need of looking over the
" whole Proceſs on this Account, in which there are ſeveral Things which
" ought to be kept ſecret. It is alſo provided by another Letter of the Se-
" nate, that when the Judges and the Learned are deliberating about the
" Sentence to be pronounced, they ſhall fix the Time of the Hereſy. This
" Letter is printed amongſt the Inſtructions, and dated from *Granada*, *An.*
" 1499.

§. 5. " The Sentence, by which Perſons lapſed into Hereſy, are re-incorpora-
" ted into the Church, is in this Form. They are declared to have been He-
" reticks or Apoſtates, and to have incurred the Penalties eſtabliſhed by
" Law. But inaſmuch as they ſay they will return to the Church with a

" pure

" pure Heart, and Faith unfeigned, the Judges abſolve them from Excom-
" munication, and reconcile them to the Church, if it be true what they ſay;
" that they are unfeignedly and truly converted. 1 *Inſtruct. Hiſpal.* c. 10.

" But in a Sentence of Condemnation the Criminal muſt be declared an ob- §. 6.
" ſtinate Heretick, and his Effects be confiſcated, and his Opinions and Wri-
" tings muſt be condemned and anathematiſed, and he muſt be moreover de-
" prived of all Eccleſiaſtical Hereſies, publick Offices, and Honours what-
" ſoever, and finally be deliver'd over to the ſecular Court, to receive his due
" Puniſhment.

" But if any one, after Sentence of Reconciliation, ſhall be convicted of §. 8.
" having concealed any Hereſies or Hereticks, or to have boaſted that he
" was innocent, and unjuſtly condemned, he muſt be examined again as an
" Impenitent; nor will the Sentence by which he was reconciled to the Church,
" be of any Service to him, becauſe it appears by this very Thing, that it
" was pronounced upon a feigned Confeſſion and pretended Converſion. Be-
" ſides, if any new Proof ariſes againſt the Convert, his Cauſe muſt be tried
" over again, notwithſtanding the Sentence of Re-incorporation or Abſolu-
" tion, or Purgation, or Queſtion pronounced before in the ſame Cauſe.
" 1 *Inſtruct. Hiſpal.* c. 13. 3 *Inſtruct. Kaldoli.* c. 3.

" When the Inquiſitors differ, and the Cauſe is determined by the Senate of §. 10.
" the holy Inquiſition, all muſt ſubſcribe to the Sentence, even they who
" were of the contrary or different Opinion. If there ſhould happen to be in
" any Province three Inquiſitors, and one agrees with the Biſhop or his Vicar,
" and the two others differ from them, the Cauſe muſt be remitted to the
" Senate. But if two agree with the ordinary Judge, the Sentence muſt be
" immediately pronounced, without any Mention made of the Difference
" about pronouncing ſuch Sentence. All theſe Things are more fully contain-
" ed in ſeveral Letters of the Senate.

" It is alſo the Cuſtom, that when the Sentences againſt Hereticks are pub- §. 11.
" lickly pronounced, to read thoſe laſt of all, by which the Obſtinate and
" Impenitent are condemned; and after they have read over a ſummary
" Account of the Acts of the Proceſs, to make a Pauſe, and admoniſh the
" Hereticks before all the People, that they would at length be converted,
" becauſe as yet the Time of Mercy is not out. If they ſay they will be
" converted, they are to be carried back to Jayl, and admitted to Penance
" if converted. But if they perſiſt in their Obſtinacy and Impenitence, their
" Sentence muſt be read, after which they muſt be immediately ſeized on
" by the ſecular Judge, and being condemned to the Flames, be directly
" burnt. *Lutherans* are dealt with in a different Manner, becauſe they are
" the worſt, and the moſt pernicious of all Hereticks, and very ſeldom truly
" converted; on which Accounts they are treated with greater Severity.

" In this Order the Sentences were pronounced in *Spain* againſt Hereticks §. 12.
" deſcending from *Jews* and *Moors*, becauſe they could hurt only themſelves,
" or thoſe of the ſame Race with themſelves; for during the Space of 800
" Years, none of the noble or antient Chriſtians were infected by them. But

" after that the pernicious Hereticks of our Time are found to have infected " not only antient, but even ſome noble Chriſtians with their Impiety, they " are not admitted to be reconciled at the laſt Moment when Sentence is to " be pronounced, becauſe then they aſk Pardon rather thro' Fear of immedi- " ate Death, than willingly and from the Heart, and being thus but feigned " Converts, may do a great deal of Miſchief.

## CHAP. XXVII.

### *How the* PROCESS *is ended by Abſolution.*

HAving ſaid theſe Things in general, it now remains, that we diſtinctly explain how every Proceſs is finiſhed.

The firſt Manner of ending a Proceſs in Cauſes of the Faith, is by Abſolution, when the Criminal is not found guilty. And this may happen two ways, either becauſe he was really found innocent, the Informers and Witneſſes being found guilty of Falſhood, or becauſe the Accuſation againſt him was not fully proved.

If he is found innocent after the firſt Manner, eſpecially if the Witneſſes have retracted their Depoſitions, then he may be pronounced innocent. And in this Caſe, as *Paramus* tells us, the accuſed Perſon, whoſe Innocence appears, rides upon an Horſe, amidſt the Applauſe of the People, crowned with Laurel and Palm-Branches, after the Manner of a Triumph.

*l.* 2. *t.* 3. *c.* 1. *n.* 12.

If he is not found guilty, after the ſecond Manner, becauſe he is not convicted neither by his own Confeſſion, nor the Evidence of Fact, nor by the legal producing of Witneſſes, and is not otherwiſe found to be ſuſpected, nor publickly defamed for the aforeſaid Crime, he is abſolved by the Biſhop and Inquiſitor together, or by either of them ſeparately.

*Direct. p.* 3. *n.* 141.

For that the Priſoner cannot be condemned in ſuch a Caſe, is expreſsly determined by the Council of *Biterre*, c. 11. and by that of *Narbonne*, c. 23. *But proceed to the Condemnation of no Perſon, without his own Confeſſion, or clear and open Proofs; for 'tis better to ſuffer a Crime to go unpuniſhed, than to condemn the Innocent.*

*Com.* 121.

In ſuch a Sentence of Abſolution there is no mention made of the Hereſies or Crimes, for which ſuch Perſon is accuſed or informed againſt, becauſe they are not proved. This hath been provided for by the *Madrid* Inſtruction, *An.* 1561. *c.* 62. whether it be pronounced upon a Perſon dead or alive. *When he who defends the Memory and Reputation of a Perſon deceaſed, hath legally maintained his Cauſe, and the deceaſed Perſon is to be abſolved from any farther Trial, his Sentence ſhall be pronounced in the publick Act, becauſe the Edicts were publiſhed againſt him. However, in this Caſe, the Statue of ſuch deceaſed Perſon who is abſolved in the publick Act, ſhall not be brought forth, nor ſhall the particular Errors*

of

*of which he was accuſed, be recited, becauſe they are not proved. The ſame muſt be obſerved with reſpect to thoſe, who are perſonally apprehended and accuſed, and abſolved from farther Trial, if they ſhall demand it.*

Not that they are wont to pronounce ſuch Criminal free from Hereſy, but only to declare that nothing is legally done againſt him, on Account of which he may, or ought to be pronounced an Heretick, or any ways be ſuſpected of heretical Pravity; and that therefore he is wholly releaſed from his preſent Trial, Inquiſition and Judgment. But they carefully avoid putting into his Sentence that he was innocent, or not guilty, that if ſo be he ſhould afterwards be informed againſt, and the Crime legally proved, he may be condemned notwithſtanding the aforeſaid Sentence of Abſolution. But if it ſhould happen that any one is pronounced wholly innocent, and is afterwards accuſed of the ſame Crime, their Doctrine is, that notwithſtanding his Sentence of Abſolution, he may be again judged and condemned; becauſe, in this Crime no Sentences whatſoever can ever be accounted as an adjudged Caſe, in Favour of the Faith. This *Pius* V. hath determined by a certain Reſcript, which I ſhall here give intire.

*Of our own proper Motion, &c.*

*Pope* Pius V.

*AMongſt the manifold Cares which continually imploy our Mind, this, as it ought to be, is the Principal, that the Church of God committed to us from on high, may ſafely carry on its Warfare, and as a Ship in a calm Sea, when the tempeſtuous Waves and Storms are all aſſuaged, may ſecurely ſail, and come to the deſired Port of Safety, by purging out of it, yea as far as we can, by wholly exterminating all Hereſies, and the evil Principles of erroneous Opinions. Since therefore, even when in a lower Station we managed the Affairs of the moſt holy Office of the* Roman *and Univerſal Inquiſition againſt heretical Pravity, we have at length by long Uſe, and that Experience which leads into the true Underſtanding of Things, known, that many Perſons accuſed, and proceſſed in the aforeſaid moſt holy Office, or elſewhere, before the Ordinaries of Places, and the Inquiſitors of heretical Pravity, and againſt whom Inquiſition hath been made on the Account of heretical Pravity, have, by cauſing falſe Witneſſes to be examined in their Defence, and by the Aſſiſtance of the Endeavours and Evidence of Compurgators, not at all informed of their Life and Doctrine, and by deluding and deceiving with divers other unlawful Methods, and the Invention of deceitful Excuſes and Wickedneſſes, the aforeſaid holy Office of the moſt holy Inquiſition, and the other Judges, and even the* Roman *Pontiffs themſelves, obtained and extorted many definitive Sentences of Abſolution from the aforeſaid Proceſſes and Inquiſitors, as tho' they were innocent, and alſo upon a preceding canonical Purgation of their atteſted, good, and Catholick Faith, Life and Doctrine, declaratory Sentences or Decrees from the ſaid moſt holy Office, and other Ordinaries of Places, or Delegates, and even from the* Roman *Pontiffs our Predeceſſors; which Sentences and Decrees the aforeſaid* Roman *Pontiffs have confirmed, partly by injoining perpetual Silence, and prohibiting the ſaid moſt holy Office, or other Inquiſitors, from proceeding to any farther Matters, and partly by removing Cauſes only before the* Roman *Pontiff, to whoſe Protection the ſaid Office was ſubject, and by other De-*

*rogatories*

*rogatories of Derogatories, and by moſt effectual Clauſes, even ſuch as made the Proceſſes void, and by other Decrees even in Form of Grace, by ſeveral of their own proper Motions, and by ſeveral Letters expedited under the Seal or Fiſher's Ring, iſſuing in conſiſtory, or conſiſtorially; from whence it came to paſs that the aforeſaid inquiſited Criminals, under the Veil and Protection of the aforeſaid declaratory Sentences, and Letters Apoſtolick, and eſpecially confiding in the Strength of the inhibitory Clauſe made againſt the Inquiſitors, have by ſecretly and ſometimes openly perſevering in their old Errors againſt the Catholick Faith, never truly returned to the Boſom of the Church, but by converſing ſecurely with others, and as tho' they were Catholicks, have corrupted and infected the Minds of others, and have been enabled eaſily to ſeduce them into their heretical Opinions, to the no ſmall Scandal and Prejudice of the whole Chriſtian Common-wealth, and to the Deſtruction and Loſs of the Souls of the aforeſaid accuſed Perſons: We therefore, being willing to obviate ſo pernicious and infectious a Scandal, and to conſult and provide for the Salvation of the ſaid Souls, and to remove all Doubt and Altercation from Lawyers, and all Impediments and Hindrances, by which the holy Inquiſition of heretical Pravity, may by any Manner or Means be obſtructed or hindred, from a like Motion, and of our certain Knowledge, and by the Fulneſs of our Apoſtolick Power, reducing, in the firſt Place, all and ſingular ſuch Letters Apoſtolick whatſoever, under any Form of Words whatſoever, even in the aforeſaid, or any other Cauſes of Hereſy, even ſuch as were iſſued out of proper Motion, &c. and alſo conſiſtorially, &c. or any other way howſoever, as likewiſe the above-mentioned Schedules of proper Motions, and any others, to Law and Juſtice, and the Bounds of Law, and wholly and perpetually revoking the Inhibitions by the Fiſcal of the aboveſaid holy Office of the Inquiſition, and other ordinary and delegated Judges, againſt the aforeſaid Letters, and alſo the Derogatories of Derogatories, and all other Clauſes whatſoever that open their Mouth, and as far as they are contrary to the Diſpoſition of Juriſdiction, or the Style of the ſaid Office, do, by this our perpetual and univerſal Conſtitution, to be in Force for ever, declare, decree, appoint and ordain, by our Apoſtolick Authority, that all and ſingular Sentences of Abſolution whatſoever, even upon the Head of aſſerted Innocence, or declaratory Sentences, under any Form of Words, even tho' canonical Purgation may have preceded, and tho' ſuch Sentences be definitive, and all Decrees pronounced in Favour of the ſaid Criminals and accuſed Perſons, by the aforeſaid moſt holy Office, and other ordinary and delegated Judges, and even by the* Roman *Pontiffs, or hereafter to be pronounced even by us, and our Succeſſors the* Roman *Pontiffs, for the Time being, never have, and for the future never ſhall be eſteemed as an adjudged Caſe; but that all the aforeſaid Sentences and Decrees whatſoever, even tho' by Letters Apoſtolick, or in Form of Grace, or ſeveral times repeated, or tho' iſſuing from, confirmed, or to be confirmed by ſeveral* Roman *Pontiffs, together with the aforeſaid, or any others whatſoever, even Derogatories of Derogatories, and even ſuch as make void, and all other Clauſes and Decrees, as alſo Inhibitions, and even canonical Sanctions, (the Tenors of all and ſingular of which, and of the other Premiſſes, and ſuch as follow them, we order to be looked upon as expreſſed, and wholly inſerted, as tho' they were inſerted Word for Word in theſe Preſents) to the contrary notwithſtanding, we do, by the ſame Apoſtolick Authority, will and command, that it ſhall and may be lawful for our aforeſaid holy Office of the holy Inquiſition, and our beloved Sons,*

*who*

*who now are, or ſhall be, for the Time being, Cardinals of the holy* Roman *Church, Inquiſitors of heretical Pravity, and deputed for the ſaid Office, now, or for the Time being, againſt the ſaid accuſed Criminals under Inquiſition, even tho' they have been, or are Biſhops, Arch Biſhops, Patriarchs, Primates, Cardinals of the ſaid holy* Roman *Church, Legates* a latere, *Counts, Barons, Marquiſſes, Dukes, Kings and Emperors, to make again Inquiſition and Proceſs, as well concerning the old as new Witneſſes, in the ſame Articles received, or to be received, and other Arguments, Proofs and Evidences, according to the Privileges in any manner granted and given, or hereafter reſpectively to be given and granted to the ſame Cardinals Inquiſitors by us, or any of our Predeceſſors, and Succeſſors, the* Roman *Pontiffs for the Time being, and the Apoſtolick See, even in and thro' all Matters, as tho' the aforeſaid Sentences, Decrees, and Letters Apoſtolick, and even canonical Purgations had never been made in Favour of the aforeſaid accuſed Criminals under Inquiſition, whether Biſhops, Arch-Biſhops, Patriarchs, Primates, Cardinals, Legates, Counts, Barons, Marquiſſes, Dukes, Kings, and Emperors, eſpecially when there ariſe new Proofs of the ſame, or another Species of Hereſy, even reſpecting the Time paſt, or where it appears by certain Proofs, that the Criminal under Inquiſition had been formerly abſolved by unlawful Methods: Granting alſo to the ſaid Cardinals Inquiſitors, and deputed Perſons, now or hereafter, for the ſaid moſt holy Office of the Inquiſition, full, free, ample, and abſolute Faculty, Power and Authority, of reviſing ſuch Cauſes, tho' decided by Authority of the Oecumenical Univerſal Council of* Trent, *and of re-aſſuming them in the State and Terms in which they ſhall any ways be found to have been previous to the aforeſaid Sentences, and Decrees, and even canonical Purgations, and of bringing them to their proper Concluſions, even as it is, and may be, and uſually hath been done by the ſaid Cardinals Inquiſitors, according to their Privileges in all other depending and undecided Cauſes, &c.* An. 1567. *and firſt Year of our Pontificate.*

In the ſame Manner alſo they are abſolved who are accuſed of receiving, defending, or otherwiſe favouring Hereticks or heretical Pravity, when nothing is legally granted againſt them.

## CHAP. XXVIII.

### *How the* PROCESS *againſt a Perſon defamed for Hereſy is ended by Canonical Purgation.*

WHEN the Perſon accuſed is only found to be defamed for Hereſy, *n.* 144. in any Village, City, or Province, and is not convicted either by *com.* 38. his own Confeſſion, or the Evidence of the Fact, or by the legal producing of Witneſſes, or any other legal Proofs, and Infamy only is preciſely againſt him, he is not abſolved, but he is injoined canonical Purgation by the Biſhop and Inquiſitor together, and not ſeparately.

"There

Simanc. t. 56. §. 1. "There is frequent Mention made of canonical Purgation, in the Papal "Law, and tho' in all other Crimes 'tis grown into Diſuſe, yet in the Crime "of Hereſy 'tis now practiſed, and is very common in the ſacred Court of "the Inquiſitors. For which Reaſon *Godofred* praiſes *Spain* in theſe Words. "Perſons ſuſpected of Hereſy are puniſhed in the moſt religious Kingdoms "of *Spain*, triumphing eſpecially in theſe Times, and worthy of ſingular "Praiſe, becauſe it ſuffers not only no real Hereſy, but even no Suſpicion of "Hereſy to remain even a Moment without a ſuitable Cenſure."

In the Cauſe of Canonical Purgation they proceed according to this Manner and Cuſtom. The Inquiſitors, Biſhop, or his Vicar and Aſſeſſors, or the learned Council meet together, and after diſcuſſing the Proofs, condemn the Criminal to purge himſelf by certain Witneſſes. The Number of theſe Witneſſes is arbitrary, and not preciſely determined. Sometimes two Abbots were deputed. Cap. *in Juventute* de purgat. Canon. Sometimes there have been fourteen Compurgators. Eod. tit. Cap. *Inter ſollicitudines.* In the ſame Place there are twelve named, and in the Chapter *Ex tuarum*, ſeven or five are preſcribed. The Judge is to conſider the Nature of the Perſon, Crime and Infamy, and then to order the Number of the Compurgators to be greater or leſs. For as to Perſons of greater Power, or of more Note, or who labour under greater Infamy, more are required, than from other mean and unknown Perſons, who can't ſo eaſily procure a large Number of Compurgators, to purge themſelves, becauſe all Compurgators muſt come in voluntarily, and can't be compelled as other Witneſſes. But yet ordinarily the Number is determined, that every Criminal ſhall purge himſelf with about ſeven Witneſſes, with this Addition, that if he fails in one, two, three or more, he ſhall be looked on as fully convicted of the Crime.

*Lucern. Inquiſ.* in voce *Purgatio Canonica.*

Simanc. t. 56. §. 15. "Formerly, he who was defective in only one Expurgator, was condemned "as a Convict, becauſe he was not purged by all. But when that was found "to be very dangerous, and, as it might be ſaid, that he was purged by all "who was purged by the greater Part, it was agreed on, that at the ſame "time when the Number of Purgators were agreed on, it ſhould be deter-"mined, that if any one failed either of one, two or three, or more of them, "he ſhould be eſteem'd as an Heretick Convict. For both theſe Things are "entirely at the Pleaſure of the Judge."

Theſe Witneſſes muſt be of the ſame Order as the accuſed or defamed Perſon himſelf, *i. e.* if he be a Religious they muſt be religious; if of the ſecular Clergy, they muſt be of the ſecular Clergy; if a Soldier, they muſt be Soldiers. But here they take the Word Order in general, but don't extend it to any particular Diviſions under it. So that if a Biſhop is to be purged, Abbots and religious Presbyters may be admitted with Biſhops in the Purgation. And ſo in the others. But if ſuch Compurgatots are not to be found, there muſt be choſen ſome other good Men, Citizens or others. The Compurgators muſt be Catholick Men, of an approved Life and good Reputation, who have not only been acquainted with his preſent, but with his former Converſation and Life, and who probably will not conceal the Truth, or

t. 56. §. 11.

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ſay a Falſhood, thro' Affection, Hatred, Fear, Money, or Entreaty. This Sentence is to be declared to the Criminal, who may appeal from it, and after his Appeal the Cauſe muſt be referred to the Council, except the Appeal appears to be frivolous. In ſuch a Caſe the Inquiſitors muſt not allow it, as it is in general appointed by *Clement* IV. and in particular by a certain Letter of the Council of the holy Inquiſition.

If there be no Appeal from the Sentence, or if the Sentence be confirm'd after the Appeal, or if it be rejected as frivolous by the Inquiſitors, the Criminal, in order to purge himſelf, muſt name ſo many good Men, for expurgatory Witneſſes, as are mentioned in the Sentence of the Inquiſitors. Theſe Witneſſes muſt be ſeparately cited before the Inquiſitors, and asked theſe three Things. 1. Whether they know the Criminal, and how long? 2. Whether the Criminal, or his Relations, or Kindred, have given and promiſed any Thing to them the ſaid Witneſſes, that they ſhould favour the Criminal? 3. Whether they have offered themſelves to purge the Criminal? After this they are all called to the Place where the Inquiſitors give Audience, and the Criminal is brought to the Tribunal, and interrogated by the Inquiſitors, whether he knows thoſe Men, and whether they are the Perſons which he hath named for his expurgatory Witneſſes? He uſually anſwers that he knows them, and that they are the ſame which he nominated. Theſe Things are done before the Inquiſitors only, and a Secretary or Notary, who commits every Thing to Writing; nor muſt any one be permitted to be preſent at this Purgation, no, not the Vicar of the ordinary Biſhop, as is contained in a certain Letter of the Council of the Inquiſition. However, the Ordinary or his Vicar muſt not be excluded when the Sentence of Purgation is given. Then the Inquiſitor turns himſelf to the Expurgators, and ſpeaks to them in this manner. *Know ye, Brethren, that the Criminal* N. *is accuſed and ſuſpected of this and that Crime, on which account he is obliged to purge himſelf from this Suſpicion, and you are named as Witneſſes of his Innocence. And you* N. *anſwer by God and the holy Goſpels, whether thou haſt committed thoſe Crimes?* Having thus been ſworn upon the Croſs and the holy Goſpels of God, to declare the Truth, the Inquiſitors ſay to him, *Thou* N. *haſt been accuſed of ſuch and ſuch a Crime,* ſpecifying thoſe Crimes only which ſavour of Hereſy, *of which thou art vehemently ſuſpected upon Conſideration of the Merits of the Proceſs, and therefore we demand of you, upon the Oath you have taken, whether you have committed, or done or believed theſe Crimes, or any one of them?* And when he hath given his Anſwer in the Preſence of his Compurgators, he is carried back to Priſon. Then the Inquiſitor interrogates the Purgators, whether they have rightly underſtood all theſe Things? Who anſwer that they have. After this the Witneſſes withdraw, and being each ſeparately called in, the Inquiſitor demands of them, upon a ſolemn Oath, whether they believe *N.* hath ſworn true or falſe? And whatever they anſwer, muſt be faithfully written down by the Notary. All theſe Matters are almoſt to a Word contained in one of the *Seville* Inſtructions, *An.* 1500. *Cap.* 4. Formerly alſo, if a Perſon was publickly defamed for Hereſy, he was injoined canonical Purgation publickly,

p. 514.

that he might publickly ſatisfy thoſe by Purgation, whom he had publickly offended by the ungrateful Smell of Infamy, and he was therefore purged in that Place where he was known to be defamed. And if he had been defamed in ſeveral Places, he was obliged publickly to profeſs in all of them the Catholick Faith, and to deteſt the Hereſy for which he was there defamed. The Form of the Oath, by which defamed Perſons were formerly obliged to purge themſelves, was preſcribed by the Council of *Tarracone*. *I* N. *ſwear by Almighty God, and by theſe holy Goſpels of God, which are now in my Hands, before you the Lord* N. *Arch-Biſhop, or Biſhop, and before you who are here preſent, that I neither am, nor was one of the* Inzabbatati, Valdenſes, *poor Men of* Lyons, *nor an Heretick of any Sect of Hereſy condemned by the Church, and that I do not believe, nor ever have believed their Errors, nor ever will, the whole Time of my Life. Yea, I profeſs and proteſt that I do believe, and always will for the future, believe the Catholick Faith, which the holy* Roman *and Apoſtolick Church publickly holds; teaches and preaches, and which you my Lord Arch-Biſhop or Biſhop, and the other Prelates of the univerſal Church do hold, and publickly preach and teach.* The Form of the Oath, preſcribed to the Compurgators, is this: *I* N. *ſwear by God, and by theſe four holy Goſpels of God, which I hold in my Hands, that I firmly believe, that ſuch a one hath not been one of the* Inzabbatati, Valdenſes, *or poor Men of* Lyons, *nor an Heretick, nor a Believer of their Errors, and I firmly believe that in this Matter he hath ſworn the Truth.* Having performed the Purgation injoined him, the Criminal muſt be abſolved, and declared to be a Perſon of good Reputation, nor can he be afterwards proceeded againſt upon the preceding Proofs. And thus the Infamy is removed, or the Effect of the Infamy of the Fact.

If he fails in his Purgation, *i. e.* if he can't procure ſuch and ſo many Purgers as he is injoined, he is eſteem'd as a Convict, and condemned as an Heretick.

Lucern. Inquiſ. *Purg. Can.* But others uſe this Diſtinction. If he can't procure ſo many Witneſſes, becauſe they don't believe he hath ſworn the Truth, in ſuch a Caſe he is accounted as a Convict, and deficient in his canonical Purgation. But if he can't procure them becauſe he is poor, or a Foreigner, and ſo doth not know ſo many Perſons in the whole Town, in this Caſe the Judge may relieve him at his Pleaſure, upon conſidering the Quality of the Perſon, Crime, and Infamy. So that if he can't procure ſo many of the Clergy to be his Compurgators, they may admit Laicks, or Women for want of Men. And if for the ſame Reaſon they can't procure ſo many of the Laity, they may believe his Oath alone. And inaſmuch as one who is defective in his Purgation, is accounted as a Convict, they infer from hence, that if at any other Time he had fallen into Hereſy, he ought now to be accounted as a Relapſe for the Defect of his Purgation, and, as ſuch, to be delivered over to the ſecular Court.

But if he refuſes to purge himſelf he is excommunicated, and if with an hardned Mind he lies under this Excommunication for a Year, he is condemned as an Heretick. If after his Purgation he falls into the Hereſy from

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which he is purged, he is accounted a Relapſe, and as ſuch is to be deliver'd over to the ſecular Court. Cap. *Excommunicamus* 1. §. *Adjicimus*. Verſic. *Vel. ſi poſt purgationem*, &c. And Cap. *Ad abolendam*, §. *Illos quoque*, de hæret. This is particularly the Decree of the Council of *Narbonne*, Cap. 11. *And as to thoſe who, after Abjuration or Purgation of their Error, ſhall be found to have returned to the Error they have abjured, leave them to the ſecular Judgment without any farther Hearing, to receive their due Puniſhment. For 'tis enough that they have once deceived the Church by a falſe Converſion, eſpecially where there is a very great Number of them*, &c. *Altho' if they are penitent, Penance is by no Means to be denied them.* But this properly takes place when any one is vehemently defamed for Hereſy. An Infamy is ſaid to be vehement, when any one hath been oftentimes, or in many Places marked with Infamy, amongſt good Men, or hath on this account been excluded their Company, and when there ariſe any Signs or Suſpicions increaſing the Infamy of the Hereſy, or if after any grievous Offence committed, *viz.* the deſtroying the Images of the Saints, the burning of Churches, the Profanation of the Sacraments, and the like, any one is immediately looked upon as infamous. But if he falls into any other Hereſy, from which he had not purged himſelf before, he is not accounted as a Relapſe.

If he humbles himſelf in his Purgation, and will ſubmit to Penance, he is to be admitted, and not deliver'd over to the ſecular Court, unleſs he happens to be a Relapſe; for if a convicted Heretick is received when penitent, much more is this Benefit of the Church to be granted to him who is convicted only by a kind of Preſumption and feigned Proof. Simanc. t. 56. §. 16.

'Tis a Cuſtom amongſt many Inquiſitors, that a Criminal vehemently ſuſpected ſhall be firſt tortured, and afterwards forced to purge himſelf if he confeſſes nothing. After this, when he is purged, he is obliged alſo to abjure, and after his Abjuration puniſhed with other arbitrary Puniſhments. But others think it very unjuſt, that any one ſhould be condemned to ſeveral Puniſhments for a ſingle Crime, and inaſmuch as every one of theſe Puniſhments is ſufficient to purge away any Suſpicions, 'tis, without doubt, needleſs and unjuſt, that a ſuſpected Criminal ſhould be made to undergo many. §. 17. §. 18. §. 20.

But as this Purgation depends wholly on the Pleaſure of other Perſons, it is a very deceitful and uncertain Thing, and therefore ſhould not eaſily be injoined Criminals by the Inquiſitors. Thus the *Madrid* Inſtruction, *An.* 1561. cap. 47. *Canonical Purgation is, thro' the Wickedneſs of Men, a very dangerous Remedy, eſpecially in theſe Times, and therefore 'tis not much uſed, and muſt therefore be ſeldom practiſed, and with great Caution.* Hence *Simancas* judges, that thoſe who are born of *Jewiſh* or *Mooriſh* Parents, muſt not be compelled to this Purgation, becauſe it would be the ſame Thing as to throw them directly into the Fire. For who doth not think ill of them, or at leaſt doubt of their Innocence? And therefore he thinks it would be better to compel them by Abjuration, Torments, or arbitrary Puniſhments. But if they are at any time condemned to this Purgation, and they can't procure ſuch Compurgators as are required, others are to be admitted, tho' not altogether ſo Pegna, *in Direct.* p. 2. com. 14. tit. 56. §. 1.

fit, that he may not be wholly deprived of the Means of his Defence. And finally, he again and again admoniſhes the Inquiſitors not raſhly or eaſily to condemn any one to canonical Purgation, for this Reaſon, amongſt others, that 'tis enough to ſink the Criminal, if the Witneſſes anſwer, that they don't know, or doubt, whether he ſwore true or falſe. And indeed who would not be doubtful in this Caſe, who knows that no one is condemned to Purgation who is not vehemently ſuſpected. And therefore, in his Opinion they only are to be injoined Purgation, whoſe Reputation is of high Concern to the Chriſtian People, *viz.* Biſhops, Prieſts, Preachers, and others of the ſame Kind.

## CHAP. XXIX.

### *How the* PROCESS *is ended by Torture.*

WHEN the Perſon accuſed is not found guilty either by his own Confeſſion, or the Evidence of the Fact, or legally producing the Witneſſes, and when there is no ſuch Evidence to ſupport the Suſpicion, as is neceſſary to his being condemned to abjure Hereſy, he is condemned by an interlocutory Sentence to the Queſtion and Torture, that if he confeſſes nothing when interrogated by Torture, he may be eſteemed as free and innocent, and that if he confeſſes his Errors he may be converted and live. *For the ſame End*, ſays *Simancas*, Paul *delivered the* Corinthian *to Satan for the Deſtruction of his Fleſh, that his Spirit might be ſaved.*

*Cathol. Inſtit. t. 65. §. 11.*

*Royas* however ſays, that *Ulpian* ſpoke well, when he affirmed, that Credit ſhould not always be given to the Queſtion, for 'tis a very frail and dangerous Thing, and oftentimes keeps the Truth from appearing. Some are fearful, who had rather lie and ſpeak Falſhood inſtead of Truth, than endure Torments. And yet in the Crime of Hereſy, *Royas* would have the Judges peculiarly diſpoſed, and ready to put Men to the Torture, becauſe 'tis a Crime concealed in its Nature, and there is oftentimes great want of Proof. *Simancas* adds, that in ſecret Crimes a Judge ought to be more ready to inflict Torture than in others, and eſpecially in Hereſy, which lies hid in the Heart, and is more concealed than other Crimes. Add to this, that an Heretick's confeſſing will be greatly profitable to himſelf and the whole Commonwealth.

*p. 2. Aſſert. 31. §. 295, 296.*

*tit. 65. §. 51.*

The Caſes, in which they proceed to the Torture in the Proceſs of the Inquiſition, are various. This however is a received Thing, that they are never to proceed to Torture, unleſs there be a Defect of other Proofs, and they think that the Truth can't otherwiſe be found out. Hence they do not proceed to the Torture, till after the Criminal hath a Copy of his Proceſs, and he hath anſwered to all the Articles, and exhibited his Defences, and yet

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can't make his Innocence appear plainly to the Judge, when at the ſame time he can't be fully convicted by Witneſſes, or the Evidence of the Thing.

'Tis however diſputed amongſt the Doctors, whether the Proofs are to be given to the Criminal when the Proceſs is carried on *Ex mero officio*. Some affirm it, ſome deny it. Theſe different Opinions *Camillus Campegius* thus reconciles. Some Things precede all Inquiſition, and are the Original of the Inquiſition it ſelf, *viz.* ſuch Things as excite the Judge himſelf to make Inquiſition, or which any ways give Information of the Crime committed. Theſe Things are called Informations, which are received in Court, by which the Judge is certified of the Defamation. And he thinks the Doctors are to be underſtood of theſe Things when they affirm, that a Judge proceeding *merely by Office*, and not at the Inſtance of any one elſe, is not obliged to give a Copy of the Proofs. But if the Criminal denies that he is defamed of ſuch a Crime, the Judge ought to inquire concerning the Fame and Infamy, and upon Knowledge of this muſt begin to proceed to Inquiſition concerning the Offence. Not that he is obliged to aſcertain the Criminal of the Infamy it ſelf, becauſe 'tis ſufficient that the Judge knows him to be defamed. So that if in this Caſe the Criminal demands a Copy, the Judge is not obliged to give it him. But if the Judge proceeds at the Inſtance of another, he is obliged to give him a Copy of the Infamy it ſelf if he demands it. The Reaſon of the Difference is this, that when any one proceeds *ex mero officio*, 'tis ſufficient that the Infamy appears to the Judge, ſo that there is no need of a formal Trial, becauſe there is no Adverſary to try the Cauſe with; but the Trial is, as it were, between the Infamy it ſelf, which is in the Place of an Accuſer, and the Anſwer of the Perſon under Inquiſition. Add to this, that an Inquiſition may be carried on, *ex mero officio*, without any preceding Infamy.

*In Zanch. c. 9. §. 9.*

He adds farther, that a Copy of the Proofs is not to be given, when the Criminal is found contradicting himſelf, faultering or trembling. For ſuch Contradiction, Faultring, or Trembling, when other external Proofs are wanting, may determine the Judge to proceed to Torture upon any one of them. But others ſay that every Variation is not enough to order to the Torture. *Bernard Comenſis* writes to the ſame Purpoſe.

" In the Crime of Hereſy the Judge or Inquiſitor proceeds merely by Vir-
" tue of his Office, becauſe he doth not proceed upon the Accuſation of an
" Accuſer, but upon Depoſitions taken by Virtue of his Office, and there-
" fore 'tis not neceſſary that he ſhould deliver the Criminal a Copy of the
" Proofs and Articles. But *Pegna* teaches the contrary in his Annotations
" upon the Word, *Tradere Copiam*.

*Lucern. Inq.* in voce *Tortura*. §. 519

If the Perſon to be put to the Queſtion is caught contradicting himſelf, and there are at the ſame time other Proofs ſufficient for the Torture, both theſe Things muſt be added in his Sentence. But if both of them don't concur, but only one of them, *i. e.* if he is caught in Contradiction without other Proofs, or if there are other Proofs, but no ſuch Inconſiſtency, let it be put in his Sentence juſt as it appears. 'Tis

'Tis farther to be obſerved, that the Judge muſt take Care that it be diligently and diſtinctly inſerted at large by the Notary in the Acts, whether the Perſon interrogated anſwered with Reſolution, or in a trembling Manner, what Signs he diſcovered in his Face, whether Paleneſs, or Tears, or Laughter, or Sweat, or Trembling; becauſe, in Caſe of an Appeal, the ſuperior Judge, who can't look on the Criminals and Witneſſes perſonally, but only as they are deſcribed in Writing, can't come to the Knowledge of theſe Particulars, unleſs they are deſcribed at large by the firſt Judge; nor can the Judge appealed to preſume that there hath been any Inconſiſtency, becauſe he knew, that if there had, it ought to have been expreſſed in the Acts tranſmitted to him. And this is the more neceſſary, leſt the Judge himſelf, upon Examination, ſhould be proved to have ordered the Criminal to be tortured without Proof. This Inconſiſtency muſt be declared in Preſence of the inconſiſtent Witneſs, when the Judge intends to puniſh him on this Account.

And this is what *Campegius* particularly recommends to the Vicars or Commiſſaries of the Inquiſitor, or the other Deputies of the holy Offices, that they let the Inquiſitor know how far Perſons, under Examination, are to be credited, which principally depends on their Looks. He thinks the ſame ought to be diligently obſerved, whether the Inquiſitor himſelf, or his Vicar, makes the Examination, with reſpect to thoſe skilful Perſons, whoſe Advice they take, who alſo ought to know theſe Things.

But it depends wholly on the Pleaſure of the Judge, whether or no the Perſon accuſed ſhall be tortured or not, upon Account of ſuch Inconſiſtency, Faultering, Contradiction, Trembling, Sweat, *&c.*

If there are Proofs ſufficient for Inquiſition and Arreſt, but not for the Torture, a prudent Judge may collect ſufficient Proofs for the Torture from ſuch Inconſiſtency, and the like.

But yet there is a Caſe given, in which a Perſon may be tortured, without any Proofs and Copy given, *viz.* when the Perſon under Inquiſition is preſent, and will not anſwer. For then he is to be tortured not to extort a Confeſſion, but an affirmative or negative Anſwer. Likewiſe if a Perſon under Inquiſition doth not appear within the due Term, and is thereupon declared guilty of Contumacy, and afterwards comes to purge himſelf from ſuch Contumacy, he may, without any other Proofs, be tortured upon Account of it.

*Addit. in* Zanch. *c.* 11. The ſame Perſons give us the Opinion of *Gand*, who alledging ſeveral Reaſons, concludes, that a common Report amounts by the Canon Law to an half full Proof, and is equal to the Evidence of one Witneſs, and that for this Reaſon ſuch common Report is ſufficient to order to the Torture; and this he atteſts hath been uſually practiſed by all the Aſſeſſors, altho' the Judges generally act one way or the other, according to their different Opinions.

When the Fame is either vehement, or great, or ſlight, the Quality of the Perſons and Fact is to be conſidered. For if the Fact be great, and the Perſon

Perſon of great Worth, 'tis neceſſary that this Fame ſhould be either of the whole City, or at leaſt the greater Part of it. But if the Fact is inconſiderable, and reſtrained to a certain Number of Perſons, who moſt probably are acquainted with it, the Evidence of the major Part of them is enough to prove the Fame. As if a Biſhop, living with his Canons, ſhould be defamed for Fornication, ſuch Infamy will be ſufficiently proved by the major Part of thoſe Canons. But if the Fact be very ſmall, and the Perſon mean, the major Part of his Neighbourhood is enough.

Of all theſe Things *Pegna* gives us a diſtinct Account. In this Cauſe, the Crime is ſaid to appear ſo far as to inflict the Torture, when there is an half full Proof, or Proof ſufficient for the Torture. Of theſe Proofs there are ſeveral. Firſt, Inconſiſtency, not indeed of any kind, but ſuch only as regards the main Subſtance of the Crime, and in a Matter which it can't be preſumed ſhould be forgotten in ſo little a while, which is left to the Judge to determine; and when the Criminal himſelf doth not appear to be very ſtupid and forgetful. Secondly, when any one is found defamed for Hereſy, and 'tis farther proved that there is a Witneſs againſt him who can teſtify from his own Knowledge, or that there is one or more vehement or violent Proofs. Thirdly, If there is one Witneſs againſt him who can teſtify from his own Knowledge, and at the ſame Time there is one or more vehement or violent Proofs againſt him. Or if it be found that there are againſt him ſeveral vehement or violent Proofs of Hereſy, without any Infamy, or Witneſs from his own Knowledge. But when theſe Proofs are vehement, or ſufficient for the Torture, is left to the Judge to determine. *Direct. p. 3. com. 110. Lucern. Inquiſ. in voce Tortura.*

However, the Inquiſitors do ſometimes ſhamefully abuſe this Liberty, and raſhly proceed to the Torture of innocent Perſons, as will evidently appear by one Inſtance, not to mention more, given us by *Gonſalvius*. "At *p.* 181. "the ſame time almoſt they apprehended in the Inquiſition at *Seville*, a noble "Lady, *Joan Boborquia*, the Wife of *Francis Varquius*, a very eminent Man, "and Lord of *Higuera*, and Daughter of *Peter Garſia Xereſius*, a wealthy "Citizen of *Seville*. The Occaſion of her Impriſonment was, that her Siſter, "*Mary Boborquia*, a young Lady of eminent Piety, who was afterwards "burnt for her pious Confeſſion, had declared in her Torture, that ſhe had "ſeveral times converſed with her Siſter concerning her own Doctrine. When "ſhe was firſt impriſoned, ſhe was about ſix Months gone with Child, "upon which Account ſhe was not ſo ſtraitly confined, nor uſed with that "Cruelty which the other Priſoners were treated with, out of Regard to "the Infant ſhe carried in her. Eight Days after her Delivery they took the "Child from her, and on the fifteenth ſhut her cloſe up, and made her under-"go the Fate of the other Priſoners, and began to manage her Cauſe with "their uſual Arts and Rigour. In ſo dreadful a Calamity ſhe had only this "Comfort, that a certain pious young Woman, who was afterwards burnt "for her Religion by the Inquiſitors, was allowed her for her Companion. "This young Creature was, on a certain Day, carried out to her Torture, "and being returned from it into her Jayl, ſhe was ſo ſhaken, and had all

"her

" her Limbs ſo miſerably disjointed, that when ſhe laid upon her Bed of " Ruſhes, it rather encreaſed her Miſery than gave her Reſt, ſo that ſhe " could not turn her ſelf without the moſt exceſſive Pain. In this Condition, " as *Boborquia* had it not in her Power to ſhew her any, or but very little " outward Kindneſs, ſhe endeavoured to comfort her Mind with great Ten- " derneſs. The Girl had ſcarce began to recover from her Torture, when " *Boborquia* was carried out to the ſame Exerciſe, and was tortured with ſuch " diabolical Cruelty upon the Rack, that the Rope pierced and cut into the " very Bones of her Arms, Thighs, and Legs, and in this Manner ſhe was " brought back to Priſon, juſt ready to expire, the Blood immediately " running out of her Mouth in great Plenty. Undoubtedly they had burſt " her Bowels, inſomuch that the eighth Day after her Torture ſhe died. " And when after all they could not procure ſufficient Evidence to condemn " her, tho' ſought after and procured by all their Inquiſitorial Arts, yet as " the accuſed Perſon was born in that Place, where they were obliged to " give ſome Account of the Affair to the People, and indeed could not by " any Means diſſemble it, in the firſt Act of Triumph appointed after her " Death, they commanded her Sentence to be pronounced in theſe Words. " Becauſe this Lady died in Priſon, without Doubt ſuppreſſing the Cauſes of " it, and was found to be innocent upon inſpecting and diligently examining " her Cauſe, therefore the holy Tribunal pronounces her free from all Char- " ges brought againſt her by the Fiſcal, and abſolving her from any farther " Proceſs, doth reſtore her both as to her Innocence and Reputation, and " commands all her Effects which had been confiſcated, to be reſtored to " thoſe to whom they of Right belonged, *&c.* And thus after they had " murthered her by Torture with ſavage Cruelty, they pronounced her in- " nocent."

Simanc. c. 65. §. 53.

When the Sentence is pronounced by which the Criminal is condemned to the Torture, according to the Manner of the Inquiſitorial Law and Proceſſes, 'tis immediately to be notified to the Promotor of the Exchequer, that he may either appeal from it, or demand the Execution of it, as it is contained in the Letters of the Inquiſition.

Pegna, *in* p. 3. *com.* 110.

Formerly the Torture was inflicted by Lay Judges upon Hereticks or ſuſpected Perſons, according to the Conſtitution of *Innocent* IV. But becauſe by this Means ſecret Matters were oftentimes divulged, and great Inconveniencies to the Faith aroſe from hence, they afterwards thought it more convenient and wholeſome, that the whole Cogniſance and full Diſcuſſion of theſe Crimes, which are merely Eccleſiaſtical, ſhould be confined to the Inquiſitors. And as this could not oftentimes be done without the Queſtion, 'twas therefore provided, that the Inquiſitors and Biſhops might torture Criminals for theſe Offences. And upon this Account they had this Privilege granted them, that if at any time they ſhould happen to contract any Irregularity, they ſhould mutually diſpenſe with each other. As appears from the Reſcript of *Urban* IV. beginning, *Ut negotium.* And this is the Law now in Practice.

The

The Biſhop and Inquiſitor therefore meet together, and by an interlocutory Sentence, pronounce that the accuſed Perſon is to be put to the Torture ſuch a Day and ſuch an Hour. Thus the *Madrid* Inſtruction, *An.* 1561. *c.* 48. commands. *Let the Inquiſitors and Ordinary meet together to pronounce Sentence of Torture, and in the ſame Manner be preſent at the Execution of it, by reaſon of the various Caſes that may happen under the Torture.* For neither the Biſhop without the Inquiſitor, nor the Inquiſitor without the Biſhop, or his Vicar, can put any one to the Torture. But if the Biſhop or his Vicar, upon Summons ſent them, either refuſes or neglects to be preſent within eight Days, the Inquiſitor may proceed alone to the Torture; or if one be not within Reach of the other, if he be abſent a great way off, then the other may proceed by himſelf. But what Place may be ſaid to be a great way off, is left at the Pleaſure of the Judge to determine. However, the Biſhop and Inquiſitor may depute each other, or ſignify their Conſent by Letters, which muſt be done within eight Days after they are ſummoned. In the Inquiſition at *Cremona*, the Advocate of the Exchequer is preſent at the Torture, and the Inquiſitor there ſits in the Middle between the Vicar General on his right Hand, and the Advocate on his left. Carena, *p.* 1. *t.* 9. *num.* 41.

As to the Perſons who may be tortured, altho' in all other Cauſes and Crimes ſome Perſons are excepted, ſuch as Doctors, Soldiers, Officers, Noblemen, and their Sons, yet in this moſt grievous and horrible Crime of Hereſy, there is no Privilege to defend any one, but all may be put to the Torture, even Clergymen, Monks, and other Religious. But to prevent Excommunication, by grievouſly torturing or hurting them, and on Account of the Dignity with which they are inveſted, they torture them more gently and mildly, unleſs the Heinouſneſs of the Crime, and the Strength of the Evidence requires otherwiſe. As to ſuch who are freed from being tortured for other Crimes upon Account of their Youth, or old Age, or being with Child, they are not to be tortured for Hereſy. Perſons under twenty-five may be tortured for Suſpicion of Hereſy, but not if they are under fourteen, but they may be terrified and beat. Neither is there any Exception of Place, altho' by antient Cuſtom or municipal Laws the Torture is not otherwiſe to be inflicted there. Thus in the Kingdom of *Aragon* no Judge can order any Criminal to the Torture, but yet in Favour of the Faith any Perſons, even tho' privileged, may be tortured for Suſpicions of Hereſy. Pegna, *ibid. p.* 642, 643.

After the Sentence of Torture is pronounced, the Officers prepare themſelves to inflict it. "The Place of Torture in the *Spaniſh* Inquiſition is gene- Gonſalv.
"rally an under-ground and very dark Room, to which one enters thro' ſe- *p.* 65, 66.
"veral Doors. There is a Tribunal erected in it, in which the Inquiſitor,
"Inſpector, and Secretary ſit. When the Candles are lighted, and the Per-
"ſon to be tortured brought in, the Executioner, who was waiting for the
"other, makes an aſtoniſhing and dreadful Appearance. He is covered
"all over with a black Linen Garment down to his Feet, and tied cloſe to his
"Body. His Head and Face are all hid with a long black Cowl, only two
"little Holes being left in it for him to ſee thro'. All this is intended to

" ſtrike the miſerable Wretch with greater Terror in Mind and Body, when " he ſees himſelf going to be tortured by the Hands of one who thus looks " like the very Devil.

Whilſt the Officers are getting Things ready for the Torture, the Biſhop and Inquiſitor by themſelves, and other good Men zealous for the Faith, endeavour to perſuade the Perſon to be tortured, freely to confeſs the Truth, and if he will not, they order the Officers to ſtrip him, who do it in an Inſtant. Clergymen however muſt not be tortured by a Lay Officer or Torturer, unleſs they can't find any Clergymen who know how to do it, or are willing, becauſe it would be in vain for the Judges to order any Clergyman or Monk to the Torture, if there was no Body to inflict it; and therefore in ſuch a Caſe 'tis uſual to torture them by Lay Officers.

Simanc. c. 65. § 50.

Whilſt the Perſon to be tortured is ſtripping, he is perſuaded to confeſs the Truth. If he refuſes it, he is taken aſide by certain good Men, and perſuaded to confeſs, and told by them, that if he confeſſes, he will not be put to Death, but only be made to ſwear that he will not return to the Hereſy he hath abjured. The Inquiſitor and Biſhop promiſe the ſame, unleſs the Perſon be a Relapſe.

If he is neither perſuaded by Threatnings or Promiſes to confeſs his Crime, he is tortured either more lightly or grievouſly, according as his Crime requires, and frequently interrogated during the Torture, upon thoſe Articles for which he is put to it, beginning with the leſſer ones, becauſe they think he will ſooner confeſs the leſſer Matters than the greater.

Royas, p. 2. *Aſſert.* 20. § 226. " The Criminals are with great Care and Diligence to be admoniſhed by " the Inquiſitors, and eſpecially when they are under Torture, that they " ſhould not by any Means bear falſe Witneſs againſt themſelves or others, " thro' Fear of Puniſhments or Torments, but ſpeak the Truth only. Nor " may the Inquiſitors promiſe Pardon or Forgiveneſs of the Offence, to compel the Criminals to confeſs Crimes which they have not committed, out of " their great Zeal to inquire out the Truth. And ſuch a falſe Confeſſion the " accuſed Perſon may ſafely revoke."

Simanc. c. 65. § 54, 55. The Inquiſitors themſelves muſt interrogate the Criminals during their Torture, nor can they commit this Buſineſs to others, unleſs they are engaged in other important Affairs, in which Caſe they may depute certain good and skilful Men for the Purpoſe. 1 *Inſtruct. Hiſpal.* c. 18. Altho' in other Nations Criminals are publickly tortured, yet in *Spain* 'tis forbidden by the Royal Law, for any to be preſent whilſt they are torturing, beſides the Judges, Secretaries and Torturers. The Inquiſitors muſt alſo chuſe proper Torturers, born of antient Chriſtians, who muſt be bound by Oath, by no Means to diſcover their Secrets, nor to blab out any Thing that is ſaid.

§ 56. The Judges alſo uſually proteſt, that if the Criminal ſhould happen to die under his Torture, or by reaſon of it, or ſhould ſuffer the Loſs of any of his Limbs, 'tis not to be imputed to them, but to the Criminal himſelf, who

§ 59. will not plainly confeſs the Truth before he is tortured. An Heretick may not only be interrogated concerning himſelf, but in general alſo concerning his

his Companions and Accomplices in his Crime, his Teachers and his Disciples, for he ought to discover them, tho' he be not interrogated; but when he is interrogated concerning them, he is much more obliged to discover them, than his Accomplices in any other the most grievous Crimes. A Person also §. 60. suspected of Heresy, and fully convicted, may be tortured upon another Account, *i. e.* to discover his Companions and Accomplices in the Crime. This must be done when he boggles, or 'tis half fully proved at least that he was actually present with them, or hath such Companions and Accomplices in his Crime; for in this Case he is not tortured as a Criminal, but as a Witness. But he who makes full Confession of himself, is not tortured upon a different Account; whereas if he be a Negative, he may be tortured upon another Account, to discover his Accomplices and other Hereticks, tho' he be fully convicted himself, and it be half fully proved that he hath such Accomplices. *Instruct. Madrid.* An. 1561. c. 45. The Reason of the Difference in these Cases is this, because he who confesses against himself, would certainly much rather confess against other Hereticks if he knew them. But 'tis otherwise when the Criminal is a Negative. Royas, p. 2. *Assert.* 34.

Whilst these Things are doing, the Notary writes every Thing down in the Process, as what Tortures were inflicted, concerning what Matters the Criminal was interrogated, and what he answered. If by these Tortures they can't draw from him a Confession, they shew him other kind of Tortures, and tell him he must undergo all of them, unless he confesses the Truth. If neither by this Means they can extort the Truth, they may to terrify him and engage him to confess, assign the second or third Day to continue, not to repeat the Torture, till he hath undergone all those Kinds of them to which he is condemned.

The Degrees of Torture formerly used were five, which were inflicted in their Turn, and are described by *Julius Clarus*. *Know therefore, says he, that there are five Degrees of Torture*, viz. *First, the being threatned to be tortured. Secondly, being carried to the Place of Torture. Thirdly, by stripping and binding. Fourthly, the being hoisted up on the Rack. Fifthly, Squassation.* *Pract. crim. §. fin.* qu. 64. Versic. *Nunc de gradibus.*

This Stripping is performed without any Regard to Humanity or Honour, not only to Men, but to Women and Virgins, tho' the most virtuous and chast, of whom they have sometimes many in their Prisons. For they cause them to be stripped, even to their very Shifts, which they afterwards take off, forgive the Expression, even to their *Pudenda*, and then put on them strait Linen Drawers, and then make their Arms naked quite up to their Shoulders. As to Squassation, 'tis thus performed: The Prisoner hath his Hands bound behind his Back, and Weights tied to his Feet, and then he is drawn up on high, till his Head reaches the very Pully. He is kept hanging in this Manner for some time, that by the Greatness of the Weight hanging at his Feet, all his Joints and Limbs may be dreadfully stretched, and on a sudden he is let down with a Jirk, by the slacking the Rope, but kept from coming quite to the Ground, by which terrible Shake, his Arms and Legs are all disjointed, whereby he is put to the most exquisite Pain; the Shock which Gonsalv. p. 67. p. 70.

he receives by the ſudden Stop of his Fall, and the Weight at his Feet ſtretching his whole Body more intenſely and cruelly.

In the next Paragraph, *Et Audivi*, he gives a more diſtinct Explication of this Matter, and reckons up three Degrees of Torture. *The firſt is to terrify, which comprehends not only Threatnings to Torture, but the being carried to the Place of Torments, the being ſtripped and bound; unleſs ſuch Binding ſhould happen to be too ſevere and hard, and perform'd with a Twiſt, as is the Cuſtom of moſt Judges. Thus it was practiſed upon a certain Phyſician of* Olezo, *who ſuffered more by being bound, than others in the very Torture. And therefore ſuch Binding may be equalled to the Torture it ſelf. The ſecond Degree is, to put to the Torture, or to interrogate by Torture. This is done by hoiſting a Perſon up, and keeping him hanging for a conſiderable Time. The third is to torture by Squaſſation, which is performed amongſt us by one Jirk of the Rope. But if the Senate commands that the Perſon be well or ſeverely thus tortured, they give two Jirks of the Rope. Antonius Drogus*, in his Annotations to this Place, ſays, *That you may have the perfect modern Practice, obſerve, that when the Senate orders, let him be interrogated by Torture, the Perſon is lifted or hoiſted up, but not put to the Squaſſation. If the Senate orders, let him be tortured, he muſt then undergo the Squaſſation once, being firſt interrogated as he is hanging upon the Rope and Engine. If it orders, let him be well tortured, 'tis underſtood that he muſt ſuffer two Squaſſations. If it orders, let him be ſeverely tortured, 'tis underſtood of three Squaſſations, at three different Times within an Hour. If it ſays very ſeverely, 'tis underſtood that it muſt be done with Twiſting,— and Weights at the Feet. In this Caſe the Senate generally expreſſes the Twiſting, or any other particular Manner which they intend, and the Judge may proceed to every Severity not reaching to Death. But when it ſays, very ſeverely even unto Death, then the Criminal's Life is in immediate Danger.*

The like Method of Torture was formerly practiſed in the Inquiſition at *Tholouſe*, as appears from ſeveral Places in the Book of Sentences. Thus *fol.* 67. at the End of the Sentence of *William Sicred*, jun. we read, *Nor would he judicially confeſs concerning the aforeſaid, till he was put in Jayl, and hoiſted up a little upon the Rope.* And in *fol.* 131. we read that *William Cavallerii*, after a conſiderable Time, revoked what he had before confeſſed, *ſaying, that he confeſſed nothing concerning Hereſy, but what was forced from him by the Violence of Torment.* And finally, *fol.* 132. in the Sentence of Friar *Bernard Delicioſi*, of the Order of Minors, amongſt other Things, this was imputed to him as a Crime, *that he juſtified thoſe who were apprehended for Hereſy, and condemned for it, and ordered to perpetual Impriſonment and other Puniſhments, and that tho' they were true Catholicks, they had confeſſed Hereſy of themſelves and others, only thro' the Violence of their Torments, and were unjuſtly condemned.*

Cap. 23. The Author of the Hiſtory of the Inquiſition at *Goa* tells us, that the Torture now practiſed in the *Portugueſe* Inquiſition is exceeding cruel. *In the Months of* November *and* December, *I heard every Day in the Morning the Cries and Groans of thoſe who were put to the Queſtion, which is ſo very cruel, that I have ſeen ſeveral of both Sexes who have been ever after lame. In this Tribunal they regard neither Age nor Sex, nor Condition of Perſons, but all without Diſtinction are tortured, when 'tis for the Intereſt of this Tribunal.*

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The Method of Torturing, and the Degree of Tortures now uſed in the *Spaniſh* Inquiſition, will be well underſtood from the Hiſtory of *Iſaac Orobio*, a *Jew*, and Doctor of Phyſick, who was accuſed to the Inquiſition as a *Jew*, by a certain *Moor* his Servant, who had by his Order before this been whipped for thieving; and four Years after this he was again accuſed by a certain Enemy of his for another Fact, which would have proved him a *Jew*. But *Orobio* obſtinately denied that he was one. I will here give the Account of his Torture, as I had it from his own Mouth. After three whole Years which he had been in Jayl, and ſeveral Examinations, and the Diſcovery of the Crimes to him of which he was accuſed, in order to his Confeſſion, and his conſtant Denial of them, he was at length carried out of his Jayl, and thro' ſeveral Turnings brought to the Place of Torture. This was towards the Evening. It was a large under-ground Room, arched, and the Walls covered with black Hangings. The Candleſticks were faſtned to the Wall, and the whole Room enlightned with Candles placed in them. At one End of it there was an incloſed Place like a Cloſet, where the Inquiſitor and Notary ſat at a Table, ſo that the Place ſeemed to him as the very Manſion of Death, every Thing appearing ſo terrible and awful. Here the Inquiſitor again admoniſhed him to confeſs the Truth, before his Torments began. When he anſwered he had told the Truth, the Inquiſitor gravely proteſted, that ſince he was ſo obſtinate as to ſuffer the Torture, the holy Office would be innocent, if he ſhould ſhed his Blood, or even expire in his Torments. When he had ſaid this, they put a Linen Garment over his Body, and drew it ſo very cloſe on each Side, as almoſt ſqueezed him to Death. When he was almoſt dying, they ſlackned at once the Sides of the Garment, and after he began to breathe again, the ſudden Alteration put him to the moſt grievous Anguiſh and Pain. When he had overcome this Torture, the ſame Admonition was repeated, that he would confeſs the Truth in order to prevent farther Torment. And as he perſiſted in his Denial, they tied his Thumbs ſo very tite with ſmall Cords, as made the Extremities of them greatly ſwell, and cauſed the Blood to ſpurt out from under his Nails. After this he was placed with his Back againſt a Wall, and fixed upon a little Bench. Into the Wall were faſtned little Iron Pullies, thro' which there were Ropes drawn, and tied round his Body in ſeveral Places, and eſpecially his Arms and Legs. The Executioner drawing theſe Ropes with great Violence, faſtned his Body with them to the Wall, ſo that his Hands and Feet, and eſpecially his Fingers and Toes being bound ſo ſtraitly with them, put him to the moſt exquiſite Pain, and ſeemed to him juſt as tho' he had been diſſolving in Flames. In the Midſt of theſe Torments the Torturer, of a ſudden, drew the Bench from under him, ſo that the miſerable Wretch hung by the Cords without any Thing to ſupport him, and by the Weight of his Body drew the Knots yet much cloſer. After this a new kind of Torture ſucceeded. There was an Inſtrument like a ſmall Ladder, made of two upright Pieces of Wood, and five croſs ones ſharpned before. This the Torturer placed over againſt him, and by a certain proper Motion ſtruck it with great Violence againſt both his Shins, ſo that he received upon each of them

them at once five violent Strokes, which put him to ſuch intolerable Anguiſh that he fainted away. After he came to himſelf, they inflicted on him the laſt Torture. The Torturer tied Ropes about *Orobio*'s Wriſts, and then put thoſe Ropes about his own Back, which was covered with Leather, to prevent his hurting himſelf. Then falling backwards, and putting his Feet up againſt the Wall, he drew them with all his Might, till they cut thro' *Orobio*'s Fleſh even to the very Bones; and this Torture was repeated thrice, the Ropes being tied about his Arms about the Diſtance of two Fingers Breadth from the former Wound, and drawn with the ſame Violence. But it happen'd, that as the Ropes were drawing the ſecond time, they ſlid into the firſt Wound, which cauſed ſo great an Effuſion of Blood, that he ſeemed to be dying. Upon this the Phyſician and Surgeon, who are always ready, were ſent for out of a neighbouring Apartment, to ask their Advice, whether the Torture could be continued without Danger of Death, leaſt the Eccleſiaſtical Judges ſhould be guilty of an Irregularity if the Criminal ſhould die in his Torments. They, who were far from being Enemies to *Orobio*, anſwered, that he had Strength enough to endure the reſt of the Torture, and hereby preſerved him from having the Tortures he had already endured repeated on him, becauſe his Sentence was, that he ſhould ſuffer them all at one time, one after another. So that if at any time they are forced to leave off thro' Fear of Death, all the Tortures, even thoſe already ſuffered, muſt be ſucceſſively inflicted, to ſatisfy the Sentence. Upon this the Torture was repeated the third time, and then it ended. After this he was bound up in his own Cloaths, and carried back to his Priſon, and was ſcarce healed of his Wounds in ſeventy Days. And inaſmuch as he made no Confeſſion under his Torture, he was condemned, not as one convicted, but ſuſpected of *Judaiſm*, to wear for two whole Years the infamous Habit called *Sambenito*, and after that Term to perpetual Baniſhment from the Kingdom of *Seville*.

p. 19. *Erneſtus Eremundus Friſius*, in his Hiſtory of the Low Country Diſturbances, gives us an Accouut from *Gonſalvius*, of another Kind of Torture. There is a Wooden Bench, which they call the Wooden Horſe, made hollow like a Trough, ſo as to contain a Man lying on his Back at full Length, about the Middle of which there is a round Bar laid acroſs, upon which the Back of the Perſon is placed, ſo that he lies upon the Bar inſtead of being let into the Bottom of the Trough, with his Feet much higher than his Head. As he is lying in this Poſture, his Arms, Thighs and Shins are tied round with ſmall Cords or Strings, which being drawn with Screws at proper Diſtances from each other, cut into the very Bones, ſo as to be no longer diſcerned *. Beſides this, the Torturer throws over his Mouth and Noſtrels a thin Cloath, ſo that he is ſcarce able to breathe thro' them, and in the mean while a ſmall Stream of Water like a Thread, not Drop by Drop, falls from on high, upon the Mouth of the Perſon lying in this miſerable Condition,

Gonſalv. p. 76, 77.

* Theſe two Methods of Puniſhment ſeem to be taken from the two different Forms of the antient *Eculeus*.

and

The Torture used in the Inquisition. p. 222.



and ſo eaſily ſinks down the thin Cloth to the Bottom of his Throat, ſo that there is no Poſſibility of breathing, his Mouth being ſtopped with Water, and his Noſtrels with the Cloth, ſo that the poor Wretch is in the ſame Agony, as Perſons ready to die, and breathing out their laſt. When this Cloth is drawn out of his Throat, as it often is, that he may anſwer to the Queſtions, it is all wet with Water and Blood, and is like pulling his Bowels thro' his Mouth. There is alſo another Kind of Torture peculiar to this Tribunal, which they call the Fire. They order a large Iron Chafin-diſh full of lighted Char-coal, to be brought in, and held cloſe to the Soles of the tortured Perſon's Feet, greaſed over with Lard, ſo that the Heat of the Fire may more quickly pierce thro' them.

This is Inquiſition by Torture, when there is only half full Proof of their Crime. However, at other Times Torments are ſometimes inflicted upon Perſons condemned to Death, as a Puniſhment preceding that of Death. Of this we have a remarkable Inſtance in *William Lithgow*, an *Engliſhman*, who, as he tells us in his Travels, was taken up as a Spy in *Mallagom*, a City of *Spain*, and was expoſed to the moſt cruel Torments upon the Wooden Horſe. But when nothing could be extorted from him, he was delivered to the Inquiſition as an Heretick, becauſe his Journal abounded with Blaſphemies againſt the Pope and the Virgin *Mary*. When he confeſſed himſelf a Proteſtant before the Inquiſitor, he was admoniſhed to convert himſelf to the *Roman* Church, and was allowed eight Days to deliberate on it. In the mean while the Inquiſitor and Jeſuites came to him often, ſometimes wheedling him, ſometimes threatning and reproaching him, and ſometimes arguing with him. At length they endeavour'd to overcome his Conſtancy by kind Aſſurances and Promiſes. But all in vain. And therefore as he was immovably fixed, he was condemned in the Beginning of *Lent*, to ſuffer the Night following eleven moſt cruel Torments, and after *Eaſter* to be carried privately to *Granada*, there to be burnt at Midnight, and his Aſhes to be ſcattered into the Air: When Night came on his Fetters were taken off, then he was ſtripped naked, put upon his Knees, and his Hands lift up by Force; after which opening his Mouth with Iron Inſtruments, they filled his Belly with Water till it came out of his Jaws. Then they tied a Rope hard about his Neck, and in this Condition rolled him ſeven times the whole Length of the Room, till he was almoſt quite ſtrangled. After this they tied a ſmall Cord about both his great Toes, and hung him up thereby with his Head towards the Ground, and then cut the Rope about his Neck, letting him remain in this Condition, till all the Water diſcharged it ſelf out of his Mouth; ſo that he was laid on the Ground as juſt dead, and had his Irons put on him again. But beyond all Expectation, and by a very ſingular Accident, he was deliver'd out of Jayl, eſcaped Death, and fortunately ſail'd home to *England*. But this Method of Torturing doth not belong to this Place, where we are treating only of the Inquiſition of a Crime not yet fully proved.

If when the Perſon is decently tortured he confeſſes nothing, he is allowed to go away free, and if he demands of his Judges that he be cleared by Sentence,

tence, they can't deny it him; and they pronounce, that having diligently examined the Merits of the Proceſs, they find nothing of the Crime of which he was accuſed legally proved againſt him. There is extant in this Caſe a Decree in the *Madrid* Inſtruction, An. 1561. cap. 54. *If the Criminal overcomes the Torture, the Inquiſitor muſt then weigh and conſider the Nature of the Proofs, and the Degree and Form, or Manner of the Torture, and the Diſpoſition or Nature and Age of the tortured Criminal. All which Things conſidered, if it appears that he hath ſufficiently purged himſelf of all Marks, let them abſolve him from any farther Proceſs. But if there be any Reaſon and Cauſe, upon conſidering the aforeſaid Circumſtances, to think that the Torture was not inflicted with due Rigour, then let them inflict on him either a light or vehement Abjuration, or ſome pecuniary Penalty. Altho' this ought not to be done without great Conſideration, and unleſs the Proofs are not thought ſufficiently purged off.*

Pegna, *in Direct.* p. 122.

But if, when under the Queſtion, he confeſſes, 'tis written in the Proceſs, after which he is carried to another Place, where he hath no View of the Tortures, and there his Confeſſion made during his Torments is read over to him, and he is interrogated ſeveral times till the Confeſſion be made. But here *Gonſalvius* obſerves, that when the Priſoner is carried to Audience, they make him paſs by the Door of the Room where the Torture is inflicted, where the Executioner ſhews himſelf on purpoſe to be ſeen in that Shape of a Devil I have deſcribed before, that as he paſſes by, he may, by ſeeing him, be forced to feel, as it were, over again his paſt Torments. The Space of Time allowed between the Torture and the Ratification of the Confeſſion, is determined by the *Madrid* Inſtruction, An. 1561. cap. 53. *Twenty-four Hours after the Torture the Criminal muſt ratify his Confeſſion, and if he retracts it, the Remedies provided by Law muſt be made uſe of. And at the time when the Torture is inflicted the Notary muſt write down the Hour, as alſo the Time of the Ratification, leſt if ſuch Ratification ſhould be made the next Day, a Doubt may ariſe, whether it was after or before the twenty-four Hours. If the Criminal ratifies his Confeſſion made under Torture, and the Inquiſitors are ſatisfied of his good Confeſſion and Converſion, they may admit him to Reconciliation, altho' his Confeſſion was made under Torture. They muſt however prudently take Care how they receive ſuch Perſons, and conſider the Nature of the Hereſies they have confeſſed, and whether they have learnt them from others, or have taught them themſelves to others, upon Account of the Danger that may enſue hereby.*

p. 73.

I am not able to ſay what was the Space of Time between the Torture and the Ratification of the Confeſſion made under it, formerly in the Inquiſition at *Tholouſe*, nor whether the Criminal was diſmiſſed if he retracted his Confeſſion after the Torture was over. There is one Inſtance only of *William Cavallerii*, in the Book of the Sentences of the *Tholouſe* Inquiſition, who being in Court, and not under the Queſtion or Torture, but in a different Place, and before different Officers, and three whole Days after the Torture was over, again confeſſed the Things he had before confeſſed under Torture, and perſevered in them ſeveral Times. But afterwards he retracted all, ſaying, that he confeſſed thro' the Violence of his Torments, who yet is ſaid to be convicted

convicted by certain Witneſſes, ſome of them ſingle, of certain heretical Facts. This Perſon was pronounced an Heretick by a definitive Sentence, and as ſuch deliver'd over to the ſecular Court. But upon this Condition, that if within fifteen Days, each five of which were aſſigned him as ſo many Terms, he would confeſs his Crimes, and with a pure Heart and Faith unfeigned return to the Eccleſiaſtical Unity, abjure all Hereſy, and ſwear ſimply to obey the Commands of the Church and Inquiſitors, he ſhould be abſolved from Excommunication, and condemned to perpetual Impriſonment.

If there be very ſtrong Evidence againſt the Criminal, if new Proofs ariſe, if the Crime objected to him be very heinous, and the Diſcoveries againſt him undoubted, if he was not ſufficiently tortured before, he may be tortured again, but then only *when his Mind and Body is able to endure it.* Simanc. t. 65. §. 75.

We read in the firſt *Seville* Inſtruction, c. 15. *That he who afterwards retracts the Confeſſion extorted from him by Torture, muſt ſolemnly abjure thoſe Errors of which he was defamed, and ſuffer ſome pecuniary Penalty at the Pleaſure of his Judges, upon account of the Infamy and Suſpicion yet remaining againſt him.* But for all this the Inquiſitors oftentimes order the Queſtion in this Caſe to be repeated. §. 80.

Skilful Judges uſually enter a Proteſt in the Acts of the Proceſs, that they intend to carry on the Torture ſome other Day, that they may be able to repeat it. But *Royas* ſays, ſome Criminals are ſo crafty, that he hath often actually ſeen them immediately confeſs their Fault when put to the Torture, and after twenty four Hours retract their Confeſſion when they ſhould confirm it, and when tortured again confeſs again, and retract again, and repeat the ſame as often as they are tortured. In which Caſe, to prevent the Proceſs from being never finiſhed, he thinks they are to be puniſhed with a very grievous arbitrary Penalty, becauſe of ſo many Variations, which occaſion Proofs and bad Preſumptions. For by the ſame Reaſon any one may be tortured again, he may be puniſhed in an extraordinaty Manner. Par. 2. Aſſert. 31. §. 300.

If he doth not perſiſt in his firſt Confeſſion, and is not ſufficiently tortured, he may be put to the Torture again, not by way of Repetition, but Continuation of it; but they do not agree how often it may be repeated, when the Confeſſion extorted by it is retracted. Some affirm it may be repeated once only, others that it may be often. *Eymerick*'s Opinion is, that a Perſon ſufficiently tortured ought to be diſmiſſed freely, if he retracts what he confeſſed by Torture. But *Simancas* ſays, that a Criminal muſt not be condemned for a Confeſſion drawn out by Torture, unleſs he afterwards perſeveres in it. 'Tis the ſame in Law, if it be extorted by Fear, or Dread of impending Torments. The Confeſſion is then ſaid to be extorted thro' Fear of Torments, when the Criminal is carried to the Place in which the Torture is inflicted, and there ſtript of his Cloaths, or bound, or ſo terrified by the Judge, as that he hath great Reaſon to believe the Torture will be inflicted. For 'tis not enough if the Judge frightens him but ſlightly in any other Place, unleſs it be ſuch a Fear as may affect a Perſon of Reſolution. Hence the Light of the Inquiſitors ſays, "Altho' the Judge ſays to the Criminal, when he is out of the Place of Tor- t. 65. §. 67, 68, 69. *In voce* Tortura. §. 44.

" Torture, either confeſs, or I will order you to the Torture, frightening " him by this Means as much as he can, upon hearing of which he makes " his Confeſſion, in ſuch a Caſe the Confeſſion is not ſaid to be made thro' " Fear of Torments, becauſe the Terror it ſelf is but ſlight.

But if he perſiſts in his Confeſſion, owns his Fault, and asks Pardon of the Church, he is condemned as guilty of Hereſy by his own Confeſſion, but as penitent. But if he obſtinately perſiſts in Hereſy, he is condemned, and delivered over to the ſecular Arm to be puniſhed with Death. If the accuſed Perſon is found to have fallen into Hereſy, or there is otherwiſe Evidence proved againſt him, upon account of which he is obliged to abjure, as lightly or vehemently ſuſpected of Hereſy, he muſt not be tortured on this Account; but if beſides this he denies ſome Things not ſufficiently proved, and there be Proofs ſufficient to put him to the Queſtion, and he accordingly is tortured, but confeſſes nothing, he is not to be abſolved, but is to be proceeded againſt according to the Things proved, and muſt be commanded to abjure either as ſuſpected, or found guilty, as the Merits of the Proceſs require. Or if he confeſſes any Thing by Torture, he muſt be forced alſo to abjure it.

## CHAP. XXX.

### *How the* PROCESS *is ended againſt a Perſon ſuſpected of Hereſy, as alſo againſt one both ſuſpected and defamed.*

*Direct. P. 3. n. 161, 162. com. 40.*

WHEN a Perſon accuſed of Hereſy is found to be only ſlightly ſuſpected of it, he is conſidered either as ſuſpected publickly or privately. If he is publickly ſuſpected, this was formerly the Manner of his Abjuration. On the preceding Lord's Day the Inquiſitor proclaims, that on ſuch a Day he will make a Sermon concerning the Faith, commanding all to be preſent at it. When the Day comes, the Perſon to abjure is brought to the Church, in which the Council hath determined that he ſhall make his Abjuration. There he is placed upon a Scaffold, erected near the Altar, in the Midſt of the People, and is not allowed to ſit, but ſtands on it that all may ſee him, bare-headed, and with the Keepers ſtanding round him. The Sermon being made on the Maſs, to the People and Clergy there preſent, the Inquiſitor ſays publickly, that the Perſon there placed on the Scaffold is ſuſpected, from ſuch and ſuch Appearances and Actions, of the Hereſy that hath been refuted in the publick Sermon, and that therefore 'tis fit that he ſhould purge himſelf from it, by abjuring it as one ſlightly ſuſpected. Having ſaid this, a Book of the Goſpels is placed before him, on which laying his Hands he abjures his Hereſy. In this Oath he not only ſwears that he holds that Faith which the *Roman* Church believes, but alſo that he abjures every Hereſy

reſy that extols it ſelf againſt the holy *Roman* and Apoſtolick Church, and particularly the Hereſy of which he was ſlightly ſuſpected, naming that Hereſy: And that if he ſhall do any of the aforeſaid things for the future, he willingly ſubmits to the Penalties appointed by Law to one who thus abjures, and is ready to undergo every Penance, as well for the things he hath ſaid and done, as for thoſe concerning which he is deſervedly ſuſpected of Hereſy, which they ſhall lay on him, and that with all his Power he will endeavour to fulfill it. After this Abjuration the Inquiſitor ſays to him, *Son, Thou haſt purged away by this Abjuration, the Suſpicion, which, not without Cauſe, we entertained of you. Henceforth take heed to your ſelf, that you don't fall into this abjured Hereſy; for altho' if you repent, you would not be delivered over to the ſecular Arm, becauſe you have abjured as one ſlightly ſuſpected only, and not vehemently, yet you would be much more ſeverely puniſhed than if you had not abjured, and inſtead of being ſlightly ſuſpected, would become vehemently ſo, and made to abjure as ſuch. And if you ſhould fall again, you would ſuffer the Puniſhment due to relapſed Perſons, and be delivered over without Mercy to the ſecular Court, to be puniſhed with Death.*

If he hath not been publickly ſuſpected, he abjures privately after the ſame Manner in the Epiſcopal Palace, or Inquiſitors Hall. 'Tis now the Cuſtom for ſlightly ſuſpected Perſons to make all their Abjurations in private, whether the Fact be publick or not. Afterwards he is injoin'd Penance for what he hath committed, and upon Account of which he was thus ſuſpected.

If he is vehemently ſuſpected, he is placed in like Manner upon a Scaffold, and after he hath taken his Oath upon the Goſpels, his Abjuration is delivered him in Writing to read before all the People if he can. If he can't read, the Notary, or ſome Religious, or Clergyman reads it by Sentences, pauſing between each till the other hath repeated it after him, and ſo on till the whole Abjuration is gone thro'. In this Abjuration he ſubmits himſelf to the Puniſhments due to Relapſes, if he ever after falls into the Hereſy he hath abjured. After the Abjuration is made, the Biſhop admoniſhes him, that if ever hereafter he doth, or ſays any Thing by which it can be proved, that he hath fallen into the Hereſy he hath abjured, he will be delivered over to the ſecular Court without Mercy. Then he injoins him Penance, and commands him to obſerve it, adding this Threatning, that otherwiſe he will become a Relapſe, and may, and ought to be judged as an Impenitent. However, ſuſpected Perſons, whether it be ſlightly or vehemently, are not condemned to wear Croſſes, nor to perpetual Impriſonment, becauſe theſe are the Puniſhments of penitent Hereticks; tho' ſometimes they are ordered to wear for a while the *Sambenito*, according to the Nature of their Offence. Ordinarily they are injoin'd to ſtand on certain holy Days in the Gates of ſuch and ſuch Churches, holding a burning Taper of ſuch a Weight in their Hands, and to go a certain Pilgrimage; ſometimes alſo they are impriſoned for a while, and afterwards diſpoſed of as is thought proper.

*n.* 166. & *ſeq. com.* 41.

p. 192. *Gonſalvius* gives us ſome Inſtances of theſe Puniſhments. "There was at "*Seville* a certain poor Man, who daily maintained himſelf and his Family "by the Sweat of his Brows. A certain Parſon detained his Wife from him "by Violence, neither the Inquiſition nor any other Tribunal puniſhing this "heinous Injury. As the poor Man was one Day talking about Purgatory "with ſome other Perſons, of his own Circumſtances, he happened to ſay, "rather out of ruſtick Simplicity, than any certain Deſign, that he truly had "enough of Purgatory already, by the raſcally Parſon's violently detaining "from him his Wife. This Speech was reported to the good Parſon, and "gave him an Handle to double the poor Man's Injury, by accuſing him to "the Inquiſitors, as having a falſe Opinion concerning Purgatory. And "this the holy Tribunal thought more worthy of Puniſhment than the Par-"ſon's Wickedneſs. The poor Wretch was taken up for this trifling Speech, "kept in the Inquiſitors Jayl for two whole Years, and at length being "brought in Proceſſion, was condemned to wear the *Sambenito* for three "Years in a private Jayl; and when they were expired, to be diſmiſſed, or "kept longer in Priſon, as the Lords Inquiſitors ſhould think fit. Neither "did they ſpare the poor Creature any thing of his little Subſtance, tho' "they did his Wife to the Parſon, but adjudged all the Remains of what he "had after his long Impriſonment to the Exchequer of the Inquiſition.

p. 195. "In the ſame Proceſſion there was alſo brought forth a reputable Citizen "of *Seville*, as being ſuſpected of *Lutheraniſm*, without his Cloak and his "Hat, and carrying a Wax Taper in his Hand, after having exhauſted his "Purſe of 100 Ducats towards the Expences of the holy Tribunal, and a "Year's Impriſonment in the Jayl of the Inquiſition, and having abjured as "one vehemently ſuſpected, only becauſe he was found to have ſaid, that "thoſe immoderate Expences, and on theſe Accounts the *Spaniards* are pro-"digiouſly extravagant, which were laid out in erecting thoſe large Paper "or Linen Buildings, which the common People corruptly call Monuments, "to the Honour of Chriſt now in Heaven upon *Holy Thurſday*, and alſo thoſe "which were expended on the Feſtival of *Corpus Chriſti*, would be more ac-"ceptable to God, if they were laid out upon poor Perſons, or in placing

p. 196. "out to good Perſons poor Orphan Girls. Two young Students added to "the Number in that Proceſſion. One becauſe he had written in his Pocket-"Book ſome Verſes made by a nameleſs Author, ſo artificially, as that the "ſame Words might be interpreted ſo as to contain the higheſt Commenda-"tion of or Reflection upon *Luther*. Upon this Account only, after two "Years Impriſonment, he was brought forth in Proceſſion, without his Hat "and Cloak, carrying a Wax Taper, after which he was baniſhed for three "Years from the whole Country of *Seville*, made to abjure as lightly ſuſpect-"ed, and puniſhed with a Fine. The other underwent the ſame Cenſure, "only for tranſcribing the Verſes for their artful Compoſition, excepting "only that he commuted his Baniſhment for 100 Ducats towards the Ex-"pences of the holy Tribunal."

If

If he is violently ſuſpected, altho' it may be that he is no Heretick, yet by the Conſtruction of the Law he is accounted one, and judged as ſuch. What this Judgment is, ſhall be hereafter explained.

If he is found ſuſpected of Hereſy, and alſo defamed, he is condemned firſt to purge himſelf by his Compurgators, and after he hath thus purged himſelf as a defamed Perſon, he muſt abjure as one ſuſpected of Hereſy, whether it be lightly, vehemently, or violently, according to the Manner in which ſuch Perſons are dealt with, and he is injoined Penance, heavier or lighter, according as his Suſpicion is greater or leſs. When the Sentence is pronounced, and committed to Execution, it may be diſpenſed with, mitigated, or commuted, as the Affair, or the Amendment and Humility of the Penitent deſerves it.

[What the Manner is of proceeding at this Day in the Inquiſition general at *Rome*, againſt Perſons ſuſpected of Hereſy, we have a moſt clear Inſtance, in the Sentence pronounced againſt *Galileus Galilei*, a famous Aſtronomer, becauſe he taught, that the Sun ſtood immovable in the Midſt of the Univerſe, and that the Earth moved round it as about its proper Center. I have thought it worth while to tranſcribe it here intire, that it may appear, that Opinions purely Aſtronomical, and that have nothing to do with Religion, and which can neither be of any Advantage or Diſſervice to Piety, which ſoever ſide of the Queſtion is defended, are a ſufficient Argument to the *Roman* Inquiſitors, to render any one vehemently ſuſpected of Hereſy, after the Prelates of that Church have once determined on one ſide, and to injoin him a ſolemn Abjuration, which it ſelf is a very grievous Puniſhment in the Inquiſition. The Sentence is thus:

" We *Gaſpar Borgia*, of the Title of *Sanctæ Croix de Hieruſalem.*
" Friar *Felix Centino d'Aſcoli*, of the Title of St. *Anaſtaſia.*
" *Guido Bentivoglio*, of the Title of St. *Mary del Populo.*
" Friar *Deſiderius Scaglia di Cremona*, of the Title of St. *Charles.*
" Friar *Antony Barberini*, called *Meſroy.*
" *Lewis Zacchia*, of the Title of St. *Peter*, in *Vinculis*, called St. *Sixto.*
" *Berlingerius Gypſius*, of the Title of St. *Auſtin.*
" *Fabritius Veroſpius*, called *Presbyter*, of the Title of St. *Lawrence*, *in pane*
" *& perna.*
" *Franciſcus Barberini*, of St. *Laurence*, in *Damaſo*, and
" *Martius Ginettus*, of the Title of St. *Maria Nuova*, Deacons, by the
" Mercy of God, Cardinals of the holy *Roman* Church, ſpecially deputed
" by the holy Apoſtolick See, to be Inquiſitors againſt heretical Pravity
" throughout the whole Chriſtian Republick.
" Whereas you *Galileus*, Son of the late *Vincent Galileus* of *Florence*, aged
" Seventy, were informed againſt in the Year 1615. in this holy Office,
" that you maintained as true a certain falſe Doctrine, held by many, *viz.*
" that the Sun was in the Center of the World, and immovable, and that
" the Earth moved even with a daily Motion. Likewiſe that you have had
" certain Scholars, whom you have taught the ſame Doctrine. Likewiſe

" that you have kept up a Correſpondence with certain *German* Mathematicians concerning the ſame. Likewiſe that you have publiſhed certain " Letters concerning the ſolar Spots, in which you have explained the " ſame Doctrine as true, and that you did anſwer the Objections, which in " ſeveral Places were made againſt you, drawn from the holy Scripture, by " gloſſing the ſaid Scripture according to your own Senſe, and finally, where- " as there hath been ſhewn us a Copy of a Writing, under the Form of a " Letter, which is reported to be written by you, to one who was formerly " your Scholar, in which you followed the Hypotheſes of *Copernicus*, contain- " ing certain Propoſitions contrary to the true Senſe and Authority of the " holy Scripture.

" This holy Tribunal therefore being willing to provide againſt the Incon- " veniencies and Dangers which have proceeded and increaſed upon this Ac- " count to the Ruin of the holy Faith; By the Command of the ſaid *N.* and of " the moſt eminent Lords the Lords Cardinals of this ſupream and univerſal In- " quiſition, two Propoſitions concerning the Fixedneſs of the Sun, and the Mo- " tion of the Earth have been thus qualified by the Qualificator Divines, *viz.*

" *That the Sun is in the Center of the World, and unmovable with a local* " *Motion, is an abſurd Propoſition, falſe in Philoſophy, and formally heretical,* " *becauſe 'tis expreſsly contrary to the holy Scripture.*

" *That the Earth is not the Center of the World, nor immovable, but moves* " *even with a daily Motion, is likewiſe an abſurd Propoſition, and falſe in* " *Philoſophy, and, theologically conſidered, at leaſt erroneous in the Faith.*

" But as it pleaſed us in the mean while to proceed kindly with you, it was " decreed in the ſacred Congregation, held before our Lord *N. Feb.* 25. *An.* " 1616. that the moſt eminent Lord Cardinal *Bellarmine* ſhould command " you, that you ſhould entirely depart from the aforeſaid falſe Doctrine; " and in caſe you ſhould refuſe to obey him, you ſhould be commanded by " the Commiſſary of the holy Office, to forſake the ſaid Doctrine, and that " you ſhould not teach it to others, nor defend it, nor treat concerning it; " and that if you would not ſubmit to this Order you ſhould be put in Jayl; " and in Execution of the ſaid Decree, you were commanded by the ſaid " Commiſſary of the holy Office, for the Time being, on the Day follow- " ing in the Palace, before the aforeſaid moſt eminent Lord Cardinal *Bellar-* " *mine*, after you had been kindly admoniſhed by the ſaid Lord Cardinal, in " the Preſence of the Notary and Witneſſes, that you ſhould wholly deſiſt " from the ſaid falſe Opinion; and that it ſhould not be lawful for you " for the future, to defend it, or by any Means to teach it, neither by Word " nor Writings: And upon promiſing Obedience you were diſmiſſed.

" And that ſo pernicious a Doctrine might be wholly removed, and ſhould " not ſpread any farther, to the great Damage of the Catholick Truth, there " came forth a Decree from the ſacred Congregation, of an Index, in which the " Books treating of the ſaid Doctrine were prohibited, which Doctrine was

" declared

" declared to be falſe, and altogether contrary to the holy and divine Scripture; " and whereas at length there appeared this Book publiſhed at *Florence* the " Year next enſuing, the Title of which ſhewed that you were the Author of " it, becauſe it ran thus, *Dialogo di Galileo Galilei delle duo maſſime ſiſteme del* " *mundo, Tolomeico & Copernicano:* And whereas the ſacred Congregation at " the ſame Time knew, that by the Impreſſion of the aforeſaid Book, the " falſe Opinion concerning the Motion of the Earth, and the Fixedneſs " of the Sun, did daily gain Ground, the aforeſaid Book was diligently con- " ſidered, and there plainly appeared therein a Diſobedience to the aforeſaid " Command, of which you had Intimation, becauſe, in the ſaid Book, you de- " fended the aforeſaid Opinion already condemned, and declared to be ſo in " your own Preſence, inaſmuch as you endeavour by various round about Me- " thods in the ſaid Book, to perſuade Perſons, that you leave the ſaid Opinion " as undecided, and yet greatly probable; which is really likewiſe a very " grievous Error, becauſe no Opinion can by any Means be probable, which " hath been declared and determined to be contrary to the divine Scripture.

" Wherefore, by our Command, you are cited to this holy Office, in " which being examined upon Oath, you have owned the ſaid Book as writ- " ten and printed by you: Likewiſe you have confeſſed, that about ten or " twelve Years ago you began to write the ſaid Book, after you had received " the above Command: Likewiſe that you deſired Licence to publiſh it, " without ſignifying to the Perſons who gave you ſuch Licence, that you " were commanded not to hold, defend, or by any Means to teach ſuch Do- " ctrine.

" You have likewiſe confeſſed, that the aforeſaid Book is ſo compoſed in " ſeveral Places, as that the Reader may think that the Arguments brought " for the falſe Side of the Queſtion are ſo laid down, as by their Strength " rather to convince the Underſtanding, than to be eaſily capable of being " anſwered; excuſing your ſelf that you have ran into an Error, ſo foreign " as you have declared from your Intention, becauſe you have wrote by way " of Dialogue, and upon Account of that natural Pleaſure which every one " takes in his own Subtleties, and in ſhewing himſelf more ſhrewd than the " Generality of Men, in finding out ingenious Arguments that have the Ap- " pearance of Truth, even tho' it be only in Favour of falſe Propo- " ſitions.

" And whereas there was aſſigned to you a convenient Term for your ma- " king your Defence, you produced a Certificate under the Hand of the " moſt eminent Lord Cardinal *Bellarmine*, procured, as you ſaid, by you, " that you might defend your ſelf from the Calumnies of your Enemies, who " reported that you had abjured, and was puniſhed by the holy Office, in " which Teſtimonial 'tis declared that you had not abjured, neither been " puniſhed, but only that you had been acquainted with the Declaration " made by our Lord, and publiſhed by the ſacred Congregation of the " Index in which 'tis contained, that the Doctrine of the Earth's Mo- " tion, and the Sun's Fixedneſs is contrary to the holy Scripture, and there-

" fore

" fore ought neither to be defended or maintained. And in as much as there-
" in there is no Mention of two Particulars contained in the Command gi-
" ven you, *viz. Docere, to teach*; and *quovis modo, by any Means*; 'tis to
" be believed, that in a Courſe of fourteen or ſixteen Years, thoſe Particu-
" lars might have been forgotten by you, and that on this Account you con-
" cealed the Injunction you had been ſerved with, when you demanded Li-
" cence to print your Book, and that you ſaid all this not to excuſe your Error,
" but that it might be imputed to vain Ambition rather than to Malice. But
" this very Teſtimonial produced in your Defence, hath made your Cauſe
" rather worſe, for as much as therein it is ſaid, that the aforeſaid Opinion is
" contrary to holy Scripture, and yet you have dared to treat of it, to de-
" fend it, and perſuade others 'tis probable. Neither can you receive any
" Advantage by the Licence you artfully and fraudulently procured, becauſe
" you did not ſignify the Injunction you had received.

" And whereas it appears to us, that you have not declared to us the
" whole Truth concerning your Intention, we have judged that 'tis neceſſary
" to proceed to a rigorous Examination of you, in which, without any Pre-
" judice to thoſe Things which you have confeſſed, and which have been
" produced againſt you, concerning your ſaid Intention, you have anſwered
" in a Catholick Manner. And therefore upon ſeeing and maturely conſi-
" dering the Merits of this your Cauſe, together with your aforeſaid Con-
" feſſions and Excuſes, and all other Things by Law to be ſeen and con-
" ſidered, we have proceeded againſt you to the underwritten definitive Sen-
" tence.

" Calling therefore upon the moſt holy Name of our Lord Jeſus Chriſt,
" and his moſt glorious Mother *Mary*, ever a Virgin, we do by this our de-
" finitive Sentence, which, ſitting on our Tribunal, we pronounce in theſe
" Writings, with the Advice and Judgment of the Reverend Maſters, Do-
" ctors of Divinity, and both Laws, our Conſultors, concerning the Cauſe
" and Cauſes now depending before us, between the magnificent *Carolus Sin-
" cerus*, Doctor of both Laws, and Procurator of the Exchequer of this holy
" Office, on one Part, and you *Galileus Galilei*, the Criminal here under In-
" quiſition, by this preſent written Proceſs, examined, and confeſſed as above,
" on the other Part, ſay, judge and declare that you the aforeſaid *Galileus*
" have, upon account of thoſe Things which are produced in the written
" Proceſs, and which you have confeſſed as above, render'd your ſelf vehe-
" mently ſuſpected of Hereſy to this holy Office; *i. e.* that you have believed
" and held a Doctrine falſe, and contrary to the ſacred and divine Scriptures,
" *viz.* that the Sun is the Center of the Orb of the Earth, and doth
" not move from the Eaſt to the Weſt, and that the Earth moves, and is
" not the Center of the World, and that this may be held and defended as a
" probable Opinion, after it hath been declared and determined to be con-
" trary to the ſacred Scripture; and conſequently that you have incurred all
" the Cenſures and Penalties appointed and promulgated by the ſacred Ca-
" nons, and other general and particular Conſtitutions, againſt ſuch Offen-

" ders,

" ders; from which 'tis our Pleaſure that you ſhould be abſolved, provi-
" ded that you do firſt, with a ſincere Heart, and Faith unfeigned, ab-
" jure, curſe, and deteſt before us the aforeſaid Errors and Hereſies, and
" every other Error and Hereſy, contrary to the Catholick and Apoſtolick
" *Roman* Church, in that Form which ſhall be exhibited to you by us.

" But leaſt your grievous and pernicious Error and Tranſgreſſion ſhould go
" altogether unpuniſhed, and that you your ſelf may be render'd more cau-
" tious for the future, and that you may be an Example to others, that
" they may abſtain from ſuch Crimes, we decree that the Book of Dialogues
" of *Galileus Galilei*, ſhall be prohibited by a publick Edict, and we con-
" demn you formally to be impriſoned in this holy Office for a Time de-
" terminable at our Pleaſure; and we enjoin you, under the Title of a ſa-
" lutary Penance, that for the three Years enſuing you repeat, once in a
" Week, the ſeven penitential Pſalms; reſerving to our ſelves the Power of
" moderating, changing, or wholly, or in part removing the aforeſaid Pe-
" nalties and Penances.

" And thus we ſay, pronounce, and by our Sentence declare, ordain,
" condemn and reſerve in this, and every other better Manner and Form,
" which we can, and ought to do by Law.

Thus we the under-written Cardinals pronounce.

*F.* Cardinal *d' Aſcoli.*
*G.* Cardinal *Bentivoglio.*
*F.* Cardinal *de Cremona.*
*Fr.* Cardinal *a Mefroy.*
*B.* Cardinal *Gypſius.*
*F.* Cardinal *Veroſpius.*
*M.* Cardinal *Ginettus.*

## The Abjuration of *Galileus.*

I Galileus, *Son of the late* Vincentius Galileus, *a* Florentine, *aged Seventy, being here perſonally upon my Trial, and on my Knees before you, the moſt Eminent and Reverend the Lords Cardinals, Inquiſitors General of the univerſal Chriſtian Common-wealth, againſt heretical Pravity, having before my Eyes the moſt holy Goſpels, which I touch with my proper Hands, do ſwear that I always have believed, and do now believe, and by the Help of God, hereafter will believe all that, which the holy Catholick and Apoſtolick* Roman *Church doth hold, preach and teach. But becauſe, after I had been juridically enjoined and commanded by this holy Office, that I ſhould wholly forſake that falſe Opinion, which holds, that the Sun is the Center, and immovable, and that I ſhould not hold, defend, nor by any Manner, neither by Word or Writing, teach the aforeſaid falſe Doctrine, and after it was notified to me that the aforeſaid Doctrine was contrary to the holy Scripture, I have written and printed a Book, in which I treat of the ſaid Doctrine already condemned, and produce Reaſons of great Force in Favour of it, without giving any*

*Answer to them, I am therefore judged by the holy Office as vehemently suspected of Heresy,* viz. *that I have held and believed that the Sun is the Center of the World, and immovable, and that the Earth is not the Center, but moves.*

*Being therefore willing to remove from the Minds of your Eminences, and of every Catholick Christian, this vehement Suspicion legally conceived against me, I do with a sincere Heart and Faith unfeigned, abjure, curse and detest the above-said Errors and Heresies, and in general every other Error and Sect contrary to the aforesaid holy Church; and I swear, that for the future, I will never more say or assert, either by Word or Writing, any Thing to give Occasion for the like Suspicion; but that if I shall know any Heretick, or Person suspected of Heresy, I will inform against him to this holy Office, or to the Inquisitor or Ordinary of the Place in which I shall be. Moreover, I swear and promise, that I will fulfill and wholly observe all the Penances which are, or shall be injoined me by this holy Office. But if, what God forbid, it shall happen that I should act contrary by any Words of mine, to my Promises, Protestations and Oaths, I do subject my self to all the Penalties and Punishments which have been ordained and publish'd against such Offenders, by the sacred Canons and other Constitutions general and particular. So help me God and his holy Gospels, which I touch with my own proper Hands.*

*I the aboveſaid* Galileus Galilei *have abjured, sworn, promised and obliged my self as above, and in Testimony of these Things have subscribed with my own proper Hand this present Writing of my Abjuration, and have repeated it Word for Word at* Rome, *in the Convent of* Minerva, *this 22d Day of* July, An. 1633.

*I* Galileus Galilei, *have abjured as above, with my own proper Hand.*

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## CHAP. XXXI.

### *How the* PROCESS *against an Heretick confessed, and penitent, ends, and first of* ABJURATION.

*Direct. p. 3. n. 188. com. 44.*

IF any Heretick is informed against, and upon Oath confesses his Heresy judicially before the Bishop or Inquisitor, but professes, that upon Information of the Bishop or Inquisitor he will depart from it, return to the Bosom of the Church, and abjure that and every other Heresy, he is not deliver'd to the secular Arm, but differently punished according to the Heinousness of the Crime. For in the first Place all such Persons are compelled publickly to abjure their Heresy in the Church before all the People; but they are not permitted to excuse themselves, or in any manner to testify their Innocence, lest the People should be offended by thinking him unjustly condemned. Before the Person who is to abjure, there is placed the Book of the Gospels, and then he puts off his Hat, falls on his Knees, and putting his Hands on the Book, reads, if he knows how to read, his Abjuration; if he can't read, the Notary or some religious Person or Clergyman reads for him,

and

and making a Pauſe, the Perſon abjuring repeats what is read; then the Notary goes on, and the Abjurer always repeats his Words, with a loud Voice, ſo as to be heard by all, till the whole Abjuration is read over even to the End.

Formerly, before Perſons violently ſuſpected of Hereſy abjured, the Biſhop or Inquiſitor uſed thus to addreſs to him. *My Son, we violently ſuſpect you of Hereſy, upon account of thoſe Things 'tis declared you have committed, upon account of which you are by Law to be condemned as an Heretick. Therefore conſider and attend to what I ſay to you. If you will ſo depart from the ſaid Hereſy or Hereſies, as to be willing now here publickly to abjure them, and patiently to undergo the Penance which we enjoin you, the Church and we, as the Vicars of Chriſt, will receive you to Mercy. But we will enjoin you a Penance, which you may well bear, and abſolve you from the Sentence of Excommunication, which you were under, that you may be ſaved, and have Glory in the future World. But if you will not abjure, nor ſubmit to Penance, we will immediately deliver you to the ſecular Arm, and ſo you will deſtroy together both Body and Soul. Which therefore will you chuſe, to abjure and be ſaved, or to refuſe to abjure and to be damned?* If he ſays, I will not abjure, and perſiſts in it, he is delivered over to the ſecular Court, as ſhall be afterwards ſhewn. But if he ſays that he will abjure, the Abjuration is made according to the Forms preſcribed. But now the Biſhop uſes no ſuch Diſcourſe, but before the Criminal is brought upon the Scaffold, all Methods are diligently made uſe of for his Converſion, and if he be truly converted, he will abjure without any ſuch foregoing Admonition.

This Abjuration is injoined all who return from Hereſy, and even all ſuſpected upon any Account of Hereſy; nor is any one, tho' otherwiſe privileged, and of great Dignity, excepted. Even Boys of fourteen, and Girls of twelve Years old, are compelled to it, according to the Decree of the Council of *Tholouſe*, An. 1229. cap. 11. *Let all Perſons, as well Men as Women, the Males from fourteen Years old and upwards, and the Females from twelve, abjure every Hereſy extolling it ſelf againſt the holy and Catholick Church of* Rome, *and the Orthodox Faith, under whatſoever Name it be ranked.* The Council of *Biterre* hath decreed the ſame. And this perhaps is the ſame which is cited in a Book concerning the Form of proceeding againſt Hereticks. *And that by the Help of the Lord Hereſy may be the better extirpated, and the Faith ſooner planted in the Earth, cauſe the Statutes and Laws publiſhed on theſe Accounts by the Apoſtolick See, and the Legates and Princes thereof, to be moſt fully obſerved. Farthermore, cauſe all Perſons, Males and Females, the Males from fourteen, the Females from twelve Years old and upwards, to abjure every Hereſy, and to ſwear that they will keep the Faith, and defend the Catholick Church, and perſecute Hereticks, as is above more fully and largely contained, in Reference to them, in the Oath which thoſe who are to be reconciled muſt make, writing down the Names of all of them, as well in the Acts of the Inquiſition, as their reſpective Pariſhes, and if any preſent ſhall not take ſuch Oath within 15 Days after their Return, let them be accounted ſuſpected of Hereſy. Take Care alſo that this univerſal Abjuration be performed as ſoon as you can, either by your ſelves, or your Notaries or Writers, or by* Direct. p. 3. com. 40.

*other Eccleſiaſtical Perſons, whom you ſhall think fit to entruſt with the Affair, cauſing alſo the Counts, Barons, Rulers and Conſuls of Cities and other Places, to ſwear, that when it ſhall be required of them, they will faithfully and effectually aſſiſt the Church againſt Hereticks and their Accomplices, according to their Office and Power, and* bona fide, *endeavour to exterminate with all their Might, out of the Places ſubject to their Juriſdiction, all ſuch Perſons as ſhall be marked for Hereticks by the Church. And whoever ſhall relapſe after ſuch Abjuration, and ſhall not obſerve and do the Penances injoined them, let them ſuffer the Puniſhment due to relapſed Perſons.*

But the Inſtruction of *Valadolid*, made *An.* 1488. *c.* 12. ſays thus: *Likewiſe they have appointed, that ſuch who are not come to the Age of Diſcretion, as well Males as Females, ſhall not be obliged to abjure publickly, till after the ſaid Years of Diſcretion, which is the twelfth Year of Women, and the fourteenth of Men. And in this Senſe is to be underſtood the Statute of the* Seville *Inſtructions, which regulates this Matter. And when they ſhall have exceeded the aforeſaid Years, let them abjure what they have offended in when they were of younger Years, if they have been capable of Deceit.* From whence it may be collected that Boys and Girls might abjure before this Age, tho' not publickly. Finally, the Council of *Narbonne* hath thus decreed, cap. 6. *Cauſe all Perſons to confeſs and abjure their Faults publickly in an Aſſembly of the Clergy and People, and to ſwear according to what is more fully contained in the Apoſtolick Commands, and in the Statutes of our Lord the Pope of* Rome, *unleſs where the Slightneſs of the Fault, and the Enormity (poſſibly it ſhould have been read the Smallneſs) of the Scandal, ſhould be thought in Reaſon to deſerve an Abatement of this Rigour. And as to every one of them, let there be drawn up publick Inſtruments containing the Crimes, Abjurations, Promiſes and Penances of the ſaid Perſons, leſt the Truth, long concealed, but now ſo wonderfully and mercifully diſcovered, ſhould farther periſh or diſappear.*

If the Criminal knows how to write, he muſt ſubſcribe his Abjuration; if he doth not know how to write, or can't, the Inquiſitor and Notary muſt ſubſcribe for him. This is preſcribed by the Inquiſitors of *Spain*, by the *Madrid* Inſtruction, *An.* 1561. c. 42. *Let the Abjuration which the Criminals make, be put at the End of the Sentence, and the Pronunciation of it, which the Criminals ſhall ſubſcribe, if they know how to write, putting their Names to it; but if they know not how to write, then one of the Inquiſitors and the Notary ſhall ſubſcribe for them.*

When the Abjuration is made, becauſe every Heretick is excommunicated, they are abſolved from Excommunication upon this Condition, *viz.* if they return to the Unity of the Catholick Faith with a true Heart and Faith unfeigned, and obſerve the Commands injoined them; which is expreſsly added, that if they ſhould not obſerve them, it may appear that they were not abſolved.

Thoſe who commit heretical and apoſtate Facts, muſt be thus reconciled according to the Practice received in the Tribunal of the Inquiſition. If they voluntarily appear and ſay, that they did not believe they ought to do ſo, but retained the Faith in their Heart, then they abjure as vehemently ſuſpected, and have other ſalutary Penances injoined them. If they ſay that they both

did

did ſo, and believed that they ought to do ſo, then they abjure as formally Hereticks or Apoſtates, and are more grievouſly puniſhed, eſpecially if they have committed heretical or apoſtate Actions voluntarily, or without being compelled by Fear, or by a ſlight Occaſion of Fear. If they do not appear voluntarily, and yet confeſs heretical and apoſtate Actions, but deny the evil Intention, then they are to be tortured upon ſuch Intention, that it may be known whether they have really believed ſo or not; and if after the legal Torture they perſiſt in the negative, ſaying, they had no ill Intention, then they likewiſe abjure as vehemently ſuſpected. As to thoſe who have committed ſuch Things thro' grievous Fear, 'tis determined that 'tis likely they had no evil Intention. But if they confeſs the evil Intention or Error of the Mind, then they are compelled to abjure as formal Hereticks or Apoſtates, upon their being willing to return to the Unity of the Church, and are farther condemned as converted Hereticks to other Puniſhments and Penances, which we ſhall hereafter deſcribe. But in order to their being more grievouſly or mildly puniſhed, the Nature of that Fear they were under is conſidered, and the Circumſtances of the Perſon offending; as whether he was a Youth, or a Man, learned or unskilful, one of the Laity or Clergy, or Religious, and the like Things which uſually leſſen or encreaſe the Offences. There are alſo others who pronounce heretical Words which have no Excuſe, *viz.* in Jeſt, or Anger, or mere Simplicity, on which Offenders the Inquiſitors may lay pecuniary Mulcts.

As to ſuch Facts in which there appears nothing of an Infidel Right, and which therefore only render a Perſon ſuſpected, but don't demonſtrate him to be an Heretick, no one is proceeded againſt as an Heretick, or Believer of Hereticks, upon account of them, but only as a ſuſpected Perſon; becauſe ſuch Facts are ſometimes committed thro' carnal Affection, ſometimes thro' the Entreaties of Friends, ſometimes alſo thro' Corruption by Money. *Lucern. Inquiſ. voc.* Pœna pecun.

The Form of Abjuration formerly uſed in the Inquiſition of *Tholouſe*, oftentimes occurs in the Book of Sentences. Herein they abjure *every Hereſy extolling it ſelf againſt the Catholick Faith of our Lord Jeſus Chriſt, and the holy* Roman *Church, and all Belief of Hereticks of every condemned Sect whatſoever, by whatſoever Names they are called, and all favouring, receiving and defending of them, and Communication with them, under the Puniſhment due by Law to thoſe who relapſe into the Hereſy they have judicially abjured.* They moreover promiſe and ſwear, *that they will purſue, and reveal and diſcover Hereticks, and their Believers and Favourers, and Receivers and Defenders, and who fly for Hereſy, whenſoever and whereſoever they know them to be, or any one of them; and that they will obey and be obedient, that they will hold and keep, and defend the Catholick Faith of our Lord Jeſus Chriſt, which the holy Church of* Rome *preaches and obſerves; and that they will obey and be obedient to the Commands of the Church, and the Inquiſitors and their Succeſſors, and that they will receive, and, according to their Power, fulfil and perfect the Penance injoined them, and that they will never fly nor abſent themſelves thro' Contumacy and Wilfulneſs.* This Form in another Place is a little alter'd. *fol.* 100. *fol.* 149.

In

In Eccleſiaſtical Hiſtory we find two remarkable Forms of Abjuration preſcribed to certain famous Doctors by the Church of *Rome*. The one is that of *Berengarius*, the other that of *Jerom* of *Prague*.

*Berengarius* abjured in theſe Words. *I* Berengarius, *an unworthy Deacon of the Church of St.* Maurice *of* Angiers, *acknowledging the true and Apoſtolick Faith, do anathematiſe every Hereſy, and particularly that for which I have hitherto been defamed; which endeavours to prove, that the Bread and Wine placed upon the Altar are, after Conſecration, only a Sacrament, and not the true Body and Blood of our Lord Jeſus Chriſt, and cannot be ſenſibly, but only ſacramentally, handled or broken by the Hands of the Prieſts, nor chewed to Pieces by the Teeth of the Faithful. But I conſent to the holy Church of* Rome *and Apoſtolick See, and with my Mouth and Heart confeſs that I hold that Faith concerning the Sacrament of the Lord's Table, which our Lord and venerable Pope* Nicholas, *and this holy Synod, by Evangelick and Apoſtolick Authority, hath delivered to be held and confirmed to me,* viz. *that the Bread and Wine placed on the Altar, are, after Conſecration, not only a Sacrament, but alſo the true Body and Blood of our Lord Jeſus Chriſt, and is broken ſenſibly, not only ſacramentally, but in Truth, by the Hands of the Prieſts, and chewed by the Teeth of the Faithful, ſwearing by the holy and conſubſtantial Trinity, and by theſe moſt holy Goſpels of Chriſt. And as to thoſe, who ſhall go contrary to this Faith, I pronounce them, with their Opinions and Followers, worthy of eternal Damnation. And if I my ſelf ſhall at any time preſume to think or preach any Thing contrary to this, I ſubject my ſelf to the Severity of the Canons. I have voluntarily ſubſcribed to this, being read over and thro'.*

The Abjuration of *Jerom* of *Prague* is longer. *I* Jerom *of* Prague, *Maſter of the liberal Arts, acknowledging the true Catholick Church and Apoſtolick Faith, do anathematiſe every Hereſy, and eſpecially that for which I have hitherto been defamed, and which in former Times* John Wycleff *and* John Huſs *have dogmatiſed and held in their Works, Books, or Sermons to the Clergy and People, for which Reaſon the aforeſaid Perſons, with their Opinions and Errors, have been condemned as Hereticks by this Synod of* Conſtance, *and their aforeſaid Doctrine ſententially damned, eſpecially in ſome Articles expreſſed in the Sentences pronounced againſt them by this holy Council. I conſent alſo to the holy Church of* Rome, *and the Apoſtolick See, and this holy Council, and with my Mouth and Heart profeſs it, in and concerning all Things, and eſpecially concerning the Keys, Sacraments, Orders, Offices and Eccleſiaſtical Cenſures, Indulgencies, and Relicts of Saints, and Eccleſiaſtical Liberty, as alſo concerning the Ceremonies, and all other Things pertaining to the Chriſtian Religion, even as the Church of* Rome *and Apoſtolick See, and this holy Council profeſs; and particularly that moſt of the aforeſaid Articles are notoriouſly heretical, and long ſince condemned by the holy Fathers; ſome of them blaſphemous, others erroneous, others ſcandalous, ſome of them offenſive to pious Ears, and others of them raſh and ſeditious; and the aforeſaid Articles have been lately condemned as ſuch by this holy Council, and it hath been forbidden all and ſingular Catholicks, under Penalty of an Anathema, ever for the future to preſume to preach, dogmatiſe, or to hold the ſaid Articles, or any one of them.*

After

After these Things follows a long Abjuration of a certain triangular Figure used by him, and called the Shield of Faith, and then he goes on. *Besides, that it may appear to all what were the Reasons why I have been reputed to adhere to and favour the said late* John Huss, *I notify by these Presents, that whereas I had often heard him in his Preachings and Schools, I believed him to be a good Man, and to go in nothing contrary to the Traditions of our holy Mother Church and the holy Doctors; yea, as there were certain Articles lately offered to me in this City, laid down by him, and condemned by this holy Council, I did not at first View believe them to be his, at least in that Form: And when I had heard it affirmed by several famous Doctors and Masters in Divinity, that they were his, I desired, for my full Information, that they would shew me the Books of his own Hand-writing, in which the said Articles are said to be contained, which being shewn to me written with his own proper Hand, which I know as well as my own, I found all and singular the said Articles were written by him in that Form in which they were condemned. From whence I have found, and do find, that he and his Doctrine, with their Followers, have been deservedly condemned and rejected as heretical and mad, by the holy Council. And all these Things aforesaid I affirm purely, and without any Reserve, as one who is now fully and sufficiently informed of the aforesaid Sentences pronounced by this holy Council against the Doctrines of the said late* John Wycleff *and* John Huss, *and against their Persons; to which Sentences I do, as a devoted Catholick, in and concerning all Things humbly consent and adhere.*

After this he abjured the Opinion, that Faith was to take place even in the future Life, and concludes thus. *Moreover I swear both by the holy Trinity, and by these most holy Gospels, that I will always, and without Doubt, remain in the Truth of the Catholick Church, and pronounce all those who shall oppose this Faith, together with their Opinions, worthy of eternal Damnation. And if I my self shall at any time, which God forbid, presume to think or preach any Thing to the contrary, I subject my self to the Severity of the Canons, and shall be found obnoxious to eternal Punishment. And this Confession and Writing of my own Profession I do voluntarily offer to this holy general Council, and have subscribed the same with my own proper Hand, and have written all these Things.* This Abjuration was made *September* 15, 1415.

*Jerom* of *Prague* seems to have been terrified by the Condemnation of *John Huss*, and to have fallen thro' the Infirmity of human Nature. But afterwards he took Courage, and with great Resolution revoked his Abjuration in the Synod, and was, *May* 30, 1416. pronounced, declared, and condemned by the Council of *Constance* as an Heretick, and relapsed into Heresy, excommunicated, and anathematised, and as such deliver'd over to the secular Arm; and being brought to the Stake he suffer'd Death, and endured the severest Torments of the Fire, with a truly heroick Mind.

And in this Manner all Persons are forced to abjure, which the Church of *Rome* pronounces Hereticks, unless they are willing to be delivered over as impenitent Hereticks to the secular Arm or Court, but especially Doctors, whom they call Dogmatists, Dogmatisers, and Arch-hereticks. *Bzovius*, under the Year 1479. §. 9. gives us a famous Instance which hapned in *Spain*.

*Peter de Oſma*, who read Theological Lectures at *Salamanca*, had publiſh'd a Book, in which were ſeveral Things contained contrary to the Doctrines of the Church of *Rome*. The Arch-Biſhop of *Toledo*, then at *Alcala de Henarez*, where he generally reſided, did, by Command of Pope *Sixtus*, after having conſulted the moſt learned Men, and well conſidered the Matter for a long while, condemn his Opinions, and put the Author himſelf under the Infamy of an *Anathema*, unleſs he changed his Sentiments. The Sentence was pronounced *June* 23. Pope *Sixtus* confirmed the Sentence of the Arch-Biſhop by a Bull, and commanded him, that he ſhould not omit to proceed againſt the Followers of *Peter de Oſma*, as Hereticks, if they ſhould refuſe or wickedly defer to abjure this Hereſy they are fallen into, or to imitate the ſaid *Peter* abjuring his Errors and repenting, as they had imitated him in his Error.

## CHAP. XXXII.

### *Of the Puniſhment and wholeſome Penances injoined ſuch as abjure.*

SUCH who abjure, and after Abjuration are reconciled to the Church, are injoined various Puniſhments, and, as they call them, wholeſome Penances. They are impoſed by the Inquiſitors at Pleaſure. Extra. de hæret. c. *Ad abolendam.* §. *Præſenti.* [And thus the Council of *Narbonne* hath decreed, *Cap.* 5. *This indeed we ſo injoin, not that you ſhould impoſe every where, or upon all alike, all the fore-mentioned Penances, but that ye may, according to the Diſcretion given you of the Lord, ſo cautiouſly and providently diſpenſe them, according to the Nature of the Crimes and Perſons, Places and Times, and other Circumſtances, that whether by puniſhing or pardoning, the Life of Offenders may be amended, or at leaſt that it may appear who walks in Darkneſs, who in the Light; who is truly penitent, who feignedly converted; and that no Scandal may ariſe from hence to true Catholicks, and that Hereſy may not be defended or nouriſhed thro' Pretence of Scan-*
p. 3. t. 19. §. 13. *dal, or any other whatſoever.* But, as *Carena* adviſes, in this Impoſition of Puniſhment the Inquiſitors muſt be careful *always to uſe Clemency and Mercy, not Cruelty and Severity.* But he adds, *This muſt be underſtood with a Grain of Salt,* viz. *that this Clemency muſt not be ſhewn to an impenitent Heretick; for after the Inquiſitors have uſed all their Endeavours for his Converſion, they muſt by no Means mitigate the Puniſhments of Death, Infamy, and others threatned againſt him by Law. For as to this, whilſt he remains impenitent,* N. B. *the only Inſtance of true Piety is to be cruel.*] They have alſo Power of commuting and mitigating them; becauſe this impoſing of Penance is not a definitive Sentence, but rather an Injunction, and Command or Precept of Purgation. 'Tis otherwiſe, when the Inquiſitor hath condemned any one as an Heretick, and impoſes Penance on him as ſuch, becauſe that is a Puniſhment determined by the Law, and which

therefore doth not depend on the Pleaſure of the Inquiſitor, and becauſe by ſuch Condemnation he hath pronounced a definitive Sentence, and ſo ceaſes to be a Judge. *Zanchin. de hæret. cap.* 21. And theſe Penances in general are laid upon any Perſons.

Prieſts and others of the Clergy are not uſually injoined publick Penance, both becauſe of the Dignity of their Order, and that the Flock of the Faithful may not be offended. But altho' this is to be obſerved in ſmaller Crimes, yet in more heinous ones the Prieſts are to be compelled to undergo publick Penance, and the rather in the Crime of Hereſy, becauſe ſuch Offences in Prieſts are more heinous than in the Laity. And not only Clergymen and Presbyters are obliged to this publick Penance, but alſo Biſhops, Cardinals and others, howſoever dignified; becauſe all Men are upon an equal Foot in Matters partaining to the Orthodox Faith. Add to this, that heretical Clergymen, returning to the Church, are, after Injunction of Penance, to be depoſed, at leaſt by a verbal Degradation, by which they are ſuſpended from the Exerciſe of their Orders: But of this hereafter. Simanc. t. 47. §. 74, 75, 76.

[*Carena* obſerves particularly concerning Regulars, that when they fall into Crimes relating to this Tribunal, they are uſually puniſhed with ſome peculiar Puniſhments. Theſe are the Privation of active and paſſive Votes, of the Office of Preaching, and of hearing Confeſſions, eſpecially thoſe of Women; that the Sentence of the Inquiſitors muſt be read twice a Year in a Chapter of the Religious and Preſence of the Criminal, that they take the laſt Place in the Quire and Refectory, that they muſt be whipped by their Religious in a Chapter and Preſence of the Notary of the holy Office; and others. But *Carena* adds, theſe Puniſhments are to be injoined with great Moderation, Regard being always had to the Heinouſneſs of the Offence, and the Quality of the Offender; but yet in ſuch a Manner, as that the Inquiſitors ought to know, that ſuch Puniſhments are not impoſed only on ſoliciting Confeſſors, but even upon the Religious who offend otherwiſe. Hence it happened ſome Years ago in our Congregation at *Cremona*, by Order of the ſacred Congregation, that a certain Regular, who had raſhly incurred the Conſtitutions of *Paul* V. and *Gregory* XV. publiſhed upon the Affair of the Conception; was condemned, publickly to revoke ſome Propoſitions that were raſh, ſcandalous, and offenſive to pious Ears, in the ſame Place where he had preached them; and was farther deprived of his active and paſſive Vote, and the Office of Preaching and Lecturing, together with other wholeſome Penances. Thus alſo in a ſolemn Act of the Faith celebrated in the Kingdom of *Sicily*, Friar *Marcellus de Pratis*, a Religious of the Order of the Minors, was condemned by that moſt illuſtrious Tribunal, becauſe he had raſhly feigned himſelf a Saint, impeccable, confirmed in Grace, and had pronounced other ſcandalous and raſh Propoſitions, to the Gallies for three Years, to be baniſhed for two more into ſuch a Convent of his own Religion as ſhould be aſſigned him, with this Addition, that he ſhould faſt every *Friday* on Bread and Water, eat upon the Ground in the Refectory, walk without his Hat, and ſit in the loweſt Place *p.* 3. *t.* 19. §. 11.

in the Quire and Refectory, and be perpetually deprived of his active and paſſive Vote, and of the Faculty of hearing any Perſons Confeſſions whatſoever.

*l.* 2. *t.* 2. *c.* 15. *n.* 10. *p.* 233. *Lewis a Paramo* gives us another remarkable Inſtance of one *Mary* of the Annunciation, Prioreſs of the Monaſtery of the Annunciation at *Lisbon*, a Maid of 32 Years old, who had pretended that the Wounds of Chriſt, by the ſpecial Grace and Privilege of God, were imprinted on her, and ſhewed 32 Wounds made on her Head, repreſenting the Marks of thoſe which were made by our Saviour's Crown of Thorns, and Blood ſprinkled on her Hands like a Roſe, the Middle of which was like a Triangle, and ſhewed the Holes of the Nails narrower on one Side than the other. The ſame were to be ſeen in her Feet. Her Side appeared as tho' it had been laid open by the Blow of a Lance. When all theſe Things were openly ſhewn, it was wonderful to ſee how they raiſed the Admiration and Devotion of ſerious and holy Men, and withal ſurprized and deceived them; for ſhe did not ſuffer thoſe pretended Wounds to be ſeen otherwiſe than by Command of her Confeſſor. And that abſent Perſons might have a great Veneration for her, ſhe affirmed, that on *Thurſdays* ſhe put into the Wounds a ſmall Cloth, which received the Impreſſion of five Wounds in Form of a Croſs, that in the Middle being the largeſt. Upon which theſe Cloths were ſent, with the greateſt Veneration, thro' the infinite Devotion of the Faithful, to the Pope, and to almoſt all the moſt venerable and religious Perſons of the whole World. And as *Paramus* then had the Adminiſtration of the Cauſes of Faith in the Kingdom of *Sicily*, he ſaw ſeveral of thoſe Cloths, and the Picture of that Woman drawn to the Life, and a Book written by a Perſon of great Authority concerning her Life, Sanctity and Miracles. Yea, Pope *Gregory* XIII. himſelf determined to write Letters to that wretched Creature, to exhort her thereby to perſiſt with Conſtancy in her Courſe, and to perfect what ſhe had begun. At laſt the Impoſture was found out, that the Marks of the Wounds were not real, but made with red Lead, and that the Woman's Deſign was, when ſhe had gained Authority and Credit enough, by her pretended Sanctity, to recover the Kingdom of *Portugal* to its former State, which had legally fallen under the Power of *Philip* II. Upon this the following Sentence was pronounced againſt her by the Inquiſitors of *Lisbon*, *Decemb.* 8. *An.* 1588. Firſt, ſhe was commanded to paſs the reſt of her Life ſhut up in a Convent of another Order, that was aſſigned to her, without the City of *Lisbon*. Likewiſe, that from the Day of pronouncing the Sentence, ſhe ſhould not receive the Sacrament of the Euchariſt for the Space of five Years, three *Eaſters*, and the Hour of Death excepted, or unleſs it were neceſſary to obtain any Jubilee, that ſhould in the mean while be granted by the Pope. Likewiſe that on all *Wedneſdays* and *Fridays* of the whole Year, when the religious Women of that Convent held a Chapter, ſhe ſhould be whipped, whilſt the Pſalm, *Have Mercy on me, O God*, was reciting. Likewiſe, that ſhe ſhould not ſit down at Table at the Time of Refreſhment, but ſhould eat publickly on the Pavement, all being forbidden to

*Ibid. t.* 3. *c.* 5. *n.* 16. *p.* 303.

eat any Thing ſhe left. She was alſo obliged to throw her ſelf down at the Door of the Refectory, that the Nuns might tread on her as they came in and went out. Likewiſe, that ſhe ſhould perpetually obſerve the Eccleſiaſtical Faſt, and never more be created an Abbeſs, nor be choſen to any other Office in the Convent where ſhe had dwelt, and that ſhe ſhould be always ſubject to the loweſt of them all. Likewiſe, that ſhe ſhould never be allowed to converſe with any Nun without Leave of the Abbeſs. Likewiſe, that all the Rags marked with Drops of Blood, which ſhe had given out her ſpurious Relicks, and her Effigies deſcribing her, ſhould be every where delivered to the holy Inquiſition; or if in any Place there was no Tribunal of the Inquiſition, to the Prelate, or any other Perſon appointed. Likewiſe, that ſhe ſhould never cover her Head with the ſacred Veil, and that every *Wedneſday* and *Friday* of the whole Year ſhe ſhould abſtain from Meat, and live only on Bread and Water, and that as often as ſhe came into the Refectory, ſhe ſhould pronounce her Crime with a loud Voice in the Preſence of all the Nuns.

He tells us in the ſame Place, that *Michael Piedrola* took upon himſelf for many Years the Name of a Prophet, boaſted of Dreams and Revelations, and affirmed they were revealed to him by a divine Voice. Being convicted of ſo great a Crime, he abjured *de levi*, was for ever forbid the reading of the Bible, and other holy Books, deprived of Paper and Ink, prohibited from writing or receiving Letters, unleſs ſuch only as related to his private Affairs, denied the Liberty of diſputing about the holy Scripture, as well in Writing as in Diſcourſe, and finally, commanded to be thrown into Jayl, and there paſs the Remainder of his Life.]

The common Puniſhment of Hereticks is the Confiſcation of all their Effects; for altho' this Confiſcation is kindly remitted to thoſe who come of their own Accord, and voluntarily confeſs before they are accuſed, yet this Favour is never granted in *Spain*, to thoſe who at length confeſs after they are accuſed and thrown into Priſon, or who perſiſt in their Opinion. And this Confiſcation is made with ſuch Rigour, that the Inquiſition orders the Exchequer to ſeize on not only the Effects of the Perſons condemned, but alſo all others adminiſtred by them, altho' it evidently appears that they belong to others. The Inquiſition at *Seville* gives a remarkable Inſtance of this Kind, which *Gonſalvius* gives us a long Account of, with all its Circumſtances.

" *Nicholas Burton*, an *Engliſhman*, a Perſon remarkable for his Piety, was p. 175, " apprehended by the Inquiſition of *Seville*, and afterwards burnt for his im- &c. " movable Perſeverance in the Confeſſion of his Faith, and deteſtation of " their Impiety. When he was firſt ſeized, all his Effects and Merchandiſes, " upon Account of which he came to *Spain*, were, according to the Cuſtom " of the Inquiſition, ſequeſtred. Amongſt theſe were many other Merchan- " diſes which were conſigned to him as Factor, according to the Cuſtom of " Merchants, by another *Engliſh* Merchant dwelling in *London*. This Mer- " chant, upon hearing that his Factor was impriſoned, and his Effects ſeized " on, ſent one *John Frontom*, as his Attorney, into *Spain*, with proper In- " ſtruments, to recover his Goods. His Attorney accordingly went to *Se-*

" *ville*, and having laid before the holy Tribunal the Inſtruments and all " other neceſſary Writings, demanded that the Goods ſhould be delivered to " him. The Lords anſwered, that the Affair muſt be managed in Writing, " and that he muſt chuſe himſelf an Advocate, undoubtedly to prolong the " Suit, and out of their great Goodneſs appointed him one, to draw up for " him his Petitions and all other Inſtruments, which were to be offer'd to the " holy Tribunal, for every one of which they exorbitantly took from him eight " Reals, altho' he received no more Advantage from them, than if they had " never been drawn at all. *Frontom* waited for three or four whole Months, " twice every Day, *viz.* in the Morning, and after Dinner, at the Gates of " the Inquiſitor's Palace, praying and beſeeching, on his bended Knees, the " Lords Inquiſitors, that his Affair might be expedited, and eſpecially the " Lord Biſhop of *Tarraco*, who was then chief Inquiſitor at *Seville*, that he " in Virtue of his ſupream Authority would command his Effects to be re- " ſtored to him. But the Prey was too large and rich to be eaſily recovered. " After he had ſpent four whole Months in fruitleſs Prayers and Intreaties, he " was anſwered, that there was need of ſome other Writings from *England*, " more ample than thoſe he had brought before, in order to the Recovery " of the Effects. Upon this the *Engliſhman* immediately returns to *London*, " and procures the Inſtruments of fuller Credit which they demanded, comes " back with them to *Seville*, and laid them before the holy Tribunal. The " Lords put off his Anſwer, pretending they were hindred by more impor- " tant Affairs. They repeated this Anſwer to him every Day, and ſo put " him off for four whole Months longer. When his Money was almoſt ſpent, " and he ſtill continued earneſtly to preſs the Diſpatch of his Affair, they " referred him to the Biſhop. The Biſhop, when conſulted, ſaid he was " but one, and that the expediting the Matter belonged alſo to the other " Inquiſitors; and by thus ſhifting the Fault from one to the other, there " was no Appearance of an End of the Suit. But at length being overcome " by his Importunity, they fixed on a certain Day to diſpatch him. And " the Diſpatch was this: The Licentiate *Gaſcus*, one of the Inquiſitors, a " Man well skilled in the Frauds of the Inquiſition, commands him to come " to him after Dinner. The *Engliſhman* was pleaſed with this Meſſage, and " went to him about Evening, believing that they began to think in good " Earneſt of reſtoring him his Effects, and carrying him to Mr. *Burton* the " Priſoner, in order to make up the Account, having heard the Inquiſitors " often ſay, tho' he did not know their real Meaning, that it was neceſſary " that he and the Priſoner ſhould confer together. When he came, they " commanded the Jayl-Keeper to clap him up in ſuch a particular Priſon, " which they named to him. The poor *Engliſhman* believed at firſt, that he " was to be brought to *Burton* to ſettle the Account, but ſoon found him- " ſelf a Priſoner in a dark Dungeon, contrary to his Expectation, and " that he had quite miſtaken the Matter. After three or four Days they " brought him to an Audience, and when the *Engliſhman* demanded that the " Inquiſitors ſhould reſtore his Effects to him, they well knowing that it

" would

" would agree perfectly with their usual Arts, without any other Preface, " command him to recite his *Ave Mary*. He simply repeated it after this " manner. *Hail, Mary, full of Grace, the Lord is with thee, blessed art thou " amongst Women, and blessed is Jesus the Fruit of thy Womb.* Amen. All was " taken down in Writing, and without mentioning a Word about the resto- " ring his Effects, for there was no Need of it, they commanded him back " to his Jayl, and commenced an Action against him for an Heretick, be- " cause he had not repeated the *Ave Mary* according to the Manner of the " Church of *Rome*, and had left off in a suspected Place, and ought to have " added, *Holy* Mary, *Mother of God, pray for us Sinners*; by omitting which " Conclusion, he plainly discover'd that he did not approve the Intercession of " the Saints. And thus at last upon this righteous Pretence he was detained " a Prisoner many Days. After this he was brought forth in Procession " wearing an Habit, all his Principal's Goods for which he had been suing be- " ing confiscated, and he himself condemned to a Year's Imprisonment.

But as to suspected Persons, and those who voluntarily appear, 'tis not usual to punish them with Confiscation of Effects, and therefore other Punishments, which they call wholesome Penances, are injoined them. The Punishments and Penances to which such Penitents are condemned, are various. Those which *Dominick* used to injoin them, in order to their Reconciliation to the Church, may be collected from his Forms, which are still extant. One of them is in this Manner. *To all the Faithful of Christ, to whom these present Letters shall come, Friar* Dominick, *Canon of* Osma, *the least of Preachers, Salvation in Christ. By Authority of the Lord Abbot of* Cisteaux, *Legate of the Apostolick See, who hath committed this Office to us, we have reconciled the Bearer of these,* Pontius Rogerius, *converted thro' the Grace of God from the Sect of the Hereticks; commanding him by Virtue of the Oath he hath taken, to be led naked in his Breeches by the Priest on three Festival* Sundays, *and to be whipped from the Entrance into the Town, even to the Church. We also injoin him always to abstain from Flesh, Eggs and Cheese, or from all Things derived from Flesh, excepting* Easter-Day, Whitsontide *and* Christmas, *at which Seasons we command him to eat of them for the Denial of his former Error. Let him keep three Lents in a Year, abstaining from Fish. Let him always abstain from Fish, Oil and Wine, and fast three Days in a Week, unless bodily Infirmity, or the Labours of the Summer shall require a Dispensation. Let him be cloathed with religious Vestments, both as to Form and Colour, upon the Breasts of every one of which let strait small Crosses be sewed. Let him hear Mass every Day if it be convenient, and go to Vespers at Church on Holy-days. Let him consecrate to God other Hours, as well by Night as by Day, viz. seven times whersoever he is. Let him say over his* Pater-noster *ten times in the Day, and at Midnight twenty times. Let him observe Chastity, and in the Morning shew every Month to his Parson that Paper at the Town of* Ceri. *We also command the Parson diligently to observe his Life. Let him carefully observe all these Things, until the Lord Legate shall otherwise express his Pleasure to us in this Matter. But if he shall neglect to observe them, we command that he be accounted as perjured, an Heretick, and excommunicated, and separated from the Conversation of*

Bzovius, *An.* 1215. § 13.

*the Faithful.* There is extant also another shorter one of the same *Dominick*, in these Words. *To all the Faithful of Christ, to whom these present Letters shall come,* Friar Dominick, *Canon of* Osma, *an humble Preacher, Salvation and sincere Affection in the Lord. May all your Discretions know by Authority of these Presents, that we have granted Licence to* Raymond Will. Pelaganirio, *of* Haulte ripe, *to suffer to abide with him in his House at* Tholouse, William Ugotio, *cloathed, as he himself hath declared before us, in a certain heretical Habit, and conversing after the Manner of other Men, until the Lord Cardinal shall give a farther more express Command to us or him in this Affair. And let not this be any Occasion of Infamy or Damage to him the said* Raymond William.

In the Council of *Tarraco*, these Forms of Penances are fixed. *Let Hereticks persevering in their Error, be left to the Judgment of the secular Court, and let convicted Hereticks, if they will be converted, and Dogmatisers, after Absolution and Abjuration, be perpetually imprisoned.*

*Let the Believers of Hereticks do solemn Penance,* viz. *after this manner,* viz. *that on the next ensuing Festival of* All-Saints, *and on the Lord's-Day of the* Advent, *on the Day of our Lord's Birth, Circumcision,* Epiphany, *St.* Mary *in* February, *St.* Eulalia, *St.* Mary *in* March, *and all* Sundays *in* Lent, *they walk in Procession to the See, or Cathedral Church, without Shoes, in their Breeches and Shirt. Besides this, on St.* Mary's *Day in* February, *and on* Palm-Sunday, *they shall be reconciled in the Parish-Church, and in the Procession receive publick Discipline by the Bishop or Priest of the Church. Likewise on* Wednesday, *at the Beginning of the Fast, they shall come together to the See, and after the same Manner, and according to Form of Law, appear without their Shoes in their Breeches and Shirt, and be excluded the Church, and be kept out of it during the whole Time of* Lent, *but so as to be suffered to come to the Gates of the Church to hear Service. And on the Festival of* Cœna Domini, *let them appear without Shoes, in their Breeches and Shirt, before the Gates of the Church, and be publickly reconciled to the Church, according to the Canonical Institutions. And let them do this Penance on* Wednesday, *and of standing without the Church the whole Time of* Lent, *and on the Day of* Cœna Domini, *every Year whilst they live. But on* Lent Sundays, *after Reconciliation, let them go out of the Church, and stand before the Gates of it till the Festival of* Cœna Domini, *and always wear two Crosses before their Breasts, of a different Colour from their Cloaths, and so wear them, that they may appear solemnly penitent, with this Exception only, that they shall not be hindred from entring into the Church in* Lent *more than ten Years.*

*The Penance of those who have relapsed into favouring of Heresy, shall be in like manner solemn, as that last mentioned of those believing in them, and upon all the aforesaid Days; this excepted, that they shall wear Crosses, and in like manner do Penance on* Ash-Wednesday *and* Holy Thursday *for ten Years.*

*The Penance of those who are not relapsed into favouring, but are Favourers, and most vehemently suspected, shall be in the same Manner solemn upon the Feast of* All-Saints, *the* Nativity of Christ, Epiphany, *St.* Mary *of* February, *and all* Sundays *in* Lent. *And let them do the other Penance for seven Years, ordered to be done*

*done on* Wednesday *in* Lent, *standing without the Church during the Time of* Lent, *and being reconciled upon the Festival of* Cœna, *as aforesaid.*

*The Penance of those who are Favourers, and vehemently suspected, shall be solemn, in the same Manner, upon the Festival of* All-Saints, Christmas, *St.* Mary *of* February, Palm-Sunday, *and they shall do for five Years the other Penance of the* Wednesday *in* Lent, *and of standing without the Church during the whole Time of* Lent, *and being reconciled on the Festival of* Cœna, *as aforesaid.*

*The Penance of those who are Favourers, and suspected, shall be solemn, in the same Manner, upon the Feast of* All-Saints, *St.* Mary *of* February, *and* Palm-Sunday, *and they shall do for three Years the other Penance, on the* Wednesday *in* Lent, *and of standing without the Church during the whole Time of* Lent, *and of being reconciled on the Festival of* Cœna Domini. *This however is to be understood, that the Women shall come cloathed, and suffer Discipline.*

*This Penance all the aforesaid Persons, who are Citizens, shall do, upon the Festivals and Days before prescribed, in that City and Place where they are Citizens, and no where else, till the Festival of* Easter. *Those who are Foreigners shall do it in their Parishes, and no where else; excepting on the* Wednesday, *in the Beginning of* Lent, *and on the Day of the Festival of* Cœna, *in which all must come to the See or the Place of their Church. But in the following Seasons of* Lent, *let all Citizens and Foreigners do the ten, seven, five, and three Years Penance which they ought to do on* Wednesday *at the Beginning of* Lent, *and on the Festival of* Cœna Domini, *according to the different Nature of their Crimes, as is before determined, in the See of their City, and no where else, unless upon any just and reasonable Cause, and by the special Licence of the Bishop or his Vicar; and then in such Places where they shall go by the Bishop's Leave, they shall do the same Penance before the Bishop of that Place, or his Vicar, carrying the Letters of the Bishop or his Vicar, containing the Penance which they ought to do. And let him also, who doth the Penance, bring back the Letters of the Bishop of that Place, to* N. *of such a Diocese, containing a Testimonial of the Penance being performed. But if it should happen, that by Accident, and not by Fraud and Deceit, they can't come on those two Days to the Cathedral Church, then after their Return let them undergo publick Discipline, at the Pleasure of the Bishop, at the See of* N. *according to the Manner of those two Days, upon two other Solemnities to be assigned them.*

From these Things it appears that the Punishments to which such Penitents are usually condemned, are many and different. For first, there are some which they strictly call wholesome Penances, such as Fastings, Prayers, Alms, the frequent Use of the Sacraments of Penance, and the Eucharist, and finally Pilgrimages to certain Places. Thus in the Book of the Sentences of the *Tholouse* Inquisition some are injoined, *That they shall visit every Year, whilst they live, the Church of St.* Stephen *at* Tholouse, *in the Festival of its Invention, and the Church of St.* Saturninus *at* Tholouse, *on the Octave of* Easter. *Likewise we injoin all and singular of you the above mentioned Persons, Pilgrimages to St.* Mary de la Roche d'Amateur, *and of* Le Puy d'une vallee Verte, *and of* Montpellier, *and of* Serignan, *and to St.* Guillaume *in the Desert, and St.* Geniez *in* Provence, *St.* Pierre *of* Montmaiour, *St.* Martha *of* Tarascon, *St.*

*fol.* 99. *b.*

*fol.* 102. *a.*

*St.* Mary Magdalene *at St.* Maximin, *St.* Anthony *of* Vienne, *St.* Martial *and St.* Leonard *in the* Limousin, *St.* Dionysius, *and St.* Lewis, *and to the Virgin* Mary *of* Chartrin *in* France, *St.* Severin *in* Burdeaux, *the Virgin* Mary *of* Soulac, *St.* Faith *of* Concq, *St.* Paul *at* Narbonne, *and St.* Vincent *of* Castres.

This Pilgrimage the Penitent is injoined to make, with a black Habit, which he must carry with the Inquisitors Letters, to that Place which he is to visit in his Pilgrimage; and he is farther required to bring back Letters testimonial of the Predicant Friars, or others who dwell there in Witness of the Truth.

Sometimes they were injoined Pilgrimage, to go to War in the Holy Land against the *Saracens*. Thus the Council of *Biterre* hath determined, that such *who have thus offended the Faith or Church, shall also defend it for a Time, to be appointed at your Pleasure, either by themselves or others more fit, on the other or this Side the Sea, against the* Saracens, *or Hereticks and their Favourers, or such who otherwise rebel against the Faith and the Church.* And afterwards, *as to those who shall be injoined Pilgrimages, they shall be obliged to shew the said Testimonial Letters in each of their Pilgrimages to him, who presides over the Church which they visit, and to bring back the said Letters to you, in Testimony of their having made such Pilgrimage. As to those who go beyond Sea, let them, as soon as they can, after their Transportation, present themselves, with your Letters, to the venerable Fathers the Patriarchs of* Jerusalem, *and* Acre, *or to any other Bishop whatsoever, or to their Vicegerent, and let them bring back to you at their Return the Letters of every such foreign Bishop, in Witness of their having laudibly performed their Pilgrimage there.* An Instance of such a kind of Sentence we have in the Book of Sentences of the *Tholouse* Inquisition, pronounced against
*fol.* 142. *b.* Master *William Garrici*, Professor of Laws at *Carcassone*, who was condemned to go to the War in the Holy Land, or if he was legally prevented, to send, at his own Charge and Expence, another proper Soldier to the Relief of the said holy Land. And as for himself, he was within thirty Days to depart out of the Kingdom of *France*, and to stay in the Place assigned him, till there should be a Transportation into *Asia*; to which was added the Punishment of perpetual Imprisonment, if he refused to fulfil this Penance.

*Secondly*, Some Penances are honorary, attended with Infamy to those who do them. Such are, walking in Procession without Shoes, in their Breeches and Shirt, and to receive therein publick Discipline by the Bishop or Priest, to be expelled the Church, and to stand before the Gates of the great Church upon solemn Days, in the Time of Mass, with naked Feet, and wearing upon their Cloak an Halter about their Neck. At this Time they only stand before the Gates of the Church, with a lighted Candle in their Hand, during the Time of solemn Mass on some holy Day, as the Bell is ringing to Church.

Besides these, they now use the Punishment of Banishment, and Criminals are banished not only into such Places as are subject to the Jurisdiction of the Inquisitor who banishes them, but to Places subject to other Inquisitors, because

cauſe all Places are ſubject to the ſame chief Pontiff, by whom all the Inquiſitors are delegated. To this may be added the Puniſhment of being thruſt into a Monaſtery, which, tho' now ſeldom inflicted, was much more in uſe formerly. *Bzovius* gives us an Inſtance of it in the Year 1479. "This §. 8.
"Year was condemned at *Mayence*, *John Rucard*, of the Upper *Weſel*,
"D. D. and compelled by the Inquiſitor to recant certain Articles which he
"was reported publickly to have preached at *Worms*. All his Writings
"were before his Face thrown into the Fire and burnt, and he himſelf ſent
"to do Penance to the Convent of *Auſtin* Friars in that Place, where he died
"in a little while of Grief." *Bzovius* alſo relates the Articles againſt him, moſt of which were againſt the Papal Authority. The firſt of them deſerves to be mentioned: *That the Prelates of the Church have no Authority to ordain or add any Thing to what Chriſt and his Apoſtles have ordained: Yea, that neither Apoſtles nor the Popes have received ſuch Power from Chriſt.*

There is alſo another Puniſhment of Beating or Whipping, when Criminals are condemned to be whipped with Scourges or Rods. If they are religious Perſons, they are whipped in their own Monaſtery by other Religious, in the Preſence of the Notary of the holy Office. This Puniſhment, *Paramus* be- *l.* 2. *t.* 3.
ing Witneſs, *Laurentius Valla* ſuffered, who being condemned for Hereſy at *c.* 4. *n.* 31.
*Naples*, was preſerved from the Fire by the King's Favour, but upon this Condition, that after he had publickly recanted and damned the Things he had uttered, he ſhould atone for his Crimes by Whipping. And accordingly in the Convent of the Predicants, being led round the Cloyſters with his Hands tied, he was whipped upon his Shoulders and Back, by the Religious of the Houſe.

Sometimes they are condemned to Fines, according to the Reſcript of *Alexander* IV. *Super exſtirpatione*; and this they are eſpecially deſirous of laying upon rich and covetous Perſons. *Alexander* IV. makes this Diſpoſition in the Affair. *As to the Money which may poſſibly ariſe from ſuch Puniſhments, or from the third Part of the Fines or Condemnations, to be exacted from ſuch Perſons and Places, or from the Effects to be ſeized on by Occaſion of Hereſy or Hereticks, according to the Tenour of our Conſtitutions, let it be depoſited in the Hands of three faithful and approved Men, to be choſen by you and the Dioceſan, or his Vicar in his Abſence, and be faithfully kept by them, and let ſuch Expences as are neceſſary to the Proſecution of the Affair againſt Hereticks, be allowed you, and every one of you, without any Difficulty, by the Advice of the Biſhop himſelf, and let a full and faithful Account be given to the ſaid Dioceſan of all ſuch Expences.*

But here muſt be obſerved what *Zanchinus* teaches. "If the Inquiſitor *Cap.* 19.
"condemns any one as an Heretick, he can't condemn him in a certain Sum
"of Money, for two Reaſons. Firſt, becauſe as he condemns him for an
"Heretick, all his Effects are to be taken from him; ſo that ſince his All
"is to be forfeited, 'tis idle to talk of taking from him a Part, or any
"Thing leſs than All. Secondly, becauſe as he condemns him for Hereſy,
"and as an Heretick, he cannot mitigate his Puniſhments by commuting for

" them with Money; becauſe the Puniſhments againſt Hereticks are deter-
" mined by Law, and therefore certain, for which Reaſon 'tis not in the Power
" of the Judge or Inquiſitor to convert or commute them into Money. But
" if the Inquiſitor doth not condemn him as an Heretick, but will puniſh him
" as diſobedient or ſuſpected, or correct and purge him upon his Return, then
" he may lay a Fine on him, as he may from his own Motion injoin him other
" Puniſhments. But let him take Care, that when he intends to fine him, he
" doth not take away all from him, becauſe this is not lawful."

Sometimes, however it happens, that the Inquiſitors do, either thro' Imprudence or Inadvertence, offend againſt this Admonition of *Zanchinus*, as may
p. 180. be collected from an Inſtance related by *Gonſalvius*. " In the Inquiſition at
" *Seville*, they proceeded by an Inquiſitory Cenſure againſt a certain Citizen,
" upon Account of Religion. Amongſt other Parts of his Puniſhment, he
" forfeited all his Effects and Incomes, on which he had lived creditably
" enough before, and was ordered to be confined in a certain private Jayl,
" for ten Years, being thus ſtripped of all he had. After he had been ſome
" Days in the Priſon, in which, being reduced to extream Poverty, tho'
" otherwiſe far from being in mean Circumſtances, he was ſupported by the
" Contributions of ſome pious Perſons, one of the Notaries of the Inquiſition
" comes to him, and brings him a Command in Writing from the holy Tri-
" bunal, by which he was ordered to pay the Sum of 130 Ducats for his Ex-
" pences and Proviſion during his Impriſonment in the Inquiſition. The An-
" ſwer he returned to the Order was, that it was true, that having been
" plundered and ſtripped entirely of all his Effects, by theſe ſelf ſame Fa-
" thers of the Faith, he had nothing left to pay that Money. This Anſwer
" did not ſatisfy their Lordſhips, who ſent the Notary to him a ſecond time,
" commanding him to pay, within a few Days, the Money they had de-
" manded, or that otherwiſe they would take him out of his private Priſon,
" and throw him into the publick Jayl of the City. Unthinking Creatures,
" who did not take Care to pay themſelves their own Expences, before they
" brought the Man's Effects into the Exchequer."

Direct. p. 2. n. 19. com. 7. However, Fines are not exacted for all ſorts of Crimes, but for ſome particular kind of them only. For the Popiſh Doctors obſerve, that thoſe who offend concerning the Faith, may two ways offend the Church. Firſt, by only believing amiſs, and alſo by publiſhing Hereſies. Secondly, when beſides their ill Belief, they have added other Crimes, *viz.* if they have burnt Churches, deſtroyed Images, killed Catholicks, or committed the like Things. If they offend in the firſt Manner, and are returned, the Inquiſitor may, if he will, before they are abſolved from Excommunication, exact from the Perſon returning, not only an Oath of obeying the Commands of the Church, but alſo Security and Bail, under Penalty of a Fine of obeying ſuch Commands, and exact ſuch Penalty if he doth not obey. *Alexander* IV. hath expreſsly provided this in a Reſcript beginning, *Super exſtirpatione*. 'Tis however more honourable, not to take ſuch Security, under Penalty of a Fine, that they may not appear to do any thing rather out of Covetouſneſs,

than

than the Love of Religion, as the Council of *Narbonne* hath adviſed, cap. 17. *You muſt abſtain from and forbear ſuch pecuniary Penances and Exactions, becauſe of the Honour of your Order.* If they have offended in the ſecond Manner, they are not according to the Rigour of the Law, to be received and abſolved, before they have made good and repaired the Damage out of their own Eſtates. C. *Porro*, and C. *Parochianos*, de ſent. excom. *You muſt admoniſh and perſuade them, that they give due Satisfaction to thoſe they have injured.* And, *cauſe them to be ſtrictly avoided as excommunicated Perſons, till they have made proper Satisfaction to the Perſons injured.* If they can't immediately give Satisfaction for the Damage they have done, either thro' Poverty or other Cauſes, they are to be abſolved, upon giving proper Security, *viz.* by laying ſomething down as a Pledge, or giving Sureties to make Satisfaction when they are able, or when they ſhall come to a larger Eſtate. 'Tis alſo now a Cuſtom obſerved by all the Inquiſitors, tho' it be provided for by no Law, gently to ſtrike with a Rod ſuch as return when they abſolve them.

Such Perſons alſo are excluded from all publick Offices as infamous. Theſe publick Offices are, Offices of all ſorts, and of every Name, according to the various Rites and Cuſtoms of different Provinces. The Council of *Tholouſe* reckons even the Office of a Phyſician amongſt them. Cap. 14. *We ordain alſo, that whoſoever ſhall be defamed for Hereſy, or marked as ſuſpected, ſhall no longer be allowed the Profeſſion of a Phyſician.* 3. *p. n.* 34. *com.* 8.

Farther alſo, Penitents, and thoſe reconciled, returning from Hereſy to the Church, and the Children and Grandchildren of condemned Perſons are not only excluded from bearing publick Offices, or having Benefices and Dignities, but from uſing Silver, Gold, or precious Garments and Ornaments, according to the Council of *Biterre*, c. 28. *Let them not hold Ballives or Adminiſtrations, nor be in the Councils or Families of the Great, nor be allowed to practiſe as a Phyſician or Notary, nor be admitted to other publick Offices, or legal Actions, nor wear Gold-laced Cloaths, nor Silk, or the like Ornaments, or yellow Ribands, nor Shoe-ſtrings tagged and ſtriped with Gold or Silver, nor carved or painted Shoes; and when it appears proper, let them be turned out of the City where they dwelt, and remain for ſome time in ſome other City or Province.* 'Tis alſo forbidden them to ride on Horſes with Trappings, as Nobles do, which Prohibition extends alſo to Mules. But in theſe Caſes they allow a Diſpenſation after ſome Time.

But the moſt uſual Puniſhment of all is, their wearing Croſſes upon their penitential Garments, which was not only formerly in Uſe, but is now frequently injoined Penitents in *Spain* and *Portugal*. And this is far from being a ſmall Puniſhment. Becauſe ſuch Perſons are expoſed to the Scoffs and Inſults of all, which they are obliged to ſwallow, tho' the moſt cruel in themſelves, and offered by the vileſt of Mankind, for by theſe Croſſes they are marked to all Perſons for Hereſy, or as it is now in *Spain* and *Portugal* for *Judaiſm*. And being thus marked, they are avoided by all, and are almoſt excluded from all human Society. We have an Inſtance of this in the Book of Sentences of the *Tholouſe* Inquiſition, in one *Arnald Yſarni* of *Villemaur*, who had thrown off his Croſſes, and being afterwards again apprehended, gave this Reaſon for doing it before the *fol.* 177.

Inquiſitor; *becauſe by wearing his Croſſes he could find no Perſons and Place, where he could get his Living, and that therefore he ſtood for ten Years without them at the* Moyſſac, *and got his Livelihood by going and coming with the Ships to* Bourdeaux.

But there is ſome Difference in the Manner of wearing theſe Croſſes, for they are not always fixed on the penitential Habits the ſame way. For, in the firſt place, the Council of *Tholouſe*, *An.* 1229. held againſt Heretics, hath thus determined concerning them. *Alſo in Deteſtation of their former Error, let them wear two Croſſes for the future on the Top of their Garments, of a different Colour from their Cloaths, one on the right, and the other on the left; and let not any one be excuſed on Account of theſe Croſſes, unleſs he can produce the Letters Teſtimonial of his Biſhop, as to his Reconciliation.* Theſe Croſſes were ſo placed, as that they exactly anſwered the two Breaſts, as appears by the Letters of *Dominick*. *Let them be cloathed with religious Garments, both as to Shape and Colour, on which let two ſmall Croſſes be ſown directly upon each Breaſt.* But afterwards that theſe Penitents might be more openly and fully expoſed to the View of all Perſons, whether they ſtood before or behind them, 'twas decreed that they ſhould wear one before upon their Breaſts, and the other behind between their Shoulders. Thus we read in the Acts of the Council of *Biterre*, c. 26. *In Deteſtation of their former Error, let them wear upon their outward Garment, two Croſſes of a yellow Colour, two Spans and a half long, and two wide, and having the Breadth of three Fingers in themſelves, one before on their Breaſt, and the other behind between their Shoulders, not having that upper Garment, upon which they wear the Croſſes, of a yellow Colour, neither ſhall they put any Thing over it, either within Doors or without. And if they are convicted Hereticks, or condemned, let them wear a third Croſs of a competent Largeneſs, or of the ſame Colour, upon their Hat or Veil. And if they happen to be forſworn, or have cauſed others to forſwear themſelves, let them wear upon the upper Part of the two Croſſes, which they carry upon their Breaſt, and between their Shoulders a Croſs-Arm or Bar of a Span long, or thereabouts. Thoſe who are to tranſport themſelves muſt wear the aforeſaid Croſſes, till they are got beyond Sea, but ſhall not be obliged to wear them after that, till they ſhall come to the Shore to go aboard, in order to their Return, but they ſhall always wear them on the Sea-ſhore, when at Sea, and in the Iſles.* This Garment was formerly of a black and bluiſh Colour, like a Monk's Cloak, made without a Coul, and the Croſſes put on them were ſtrait, having one Arm long, and the other a-croſs, after this manner †. Sometimes according to the Heinouſneſs of the Offence, there were two Arms a-croſs, after this manner ‡. But now in *Spain* this Garment is of a yellow Colour, and the Croſſes put on it are oblique, after the Manner of St. *Andrew*'s Croſs, in this Form X, and are of a red Colour. [This Habit was uſed to be made always, and every where, of Woollen Cloth, but now 'tis made ſhorter than formerly. For heretofore 'twas full as long as the Monks Cloaks, and remained ſo all the while it was marked with Croſſes. For as the Croſſes themſelves were three Spans Length, it could not be otherwiſe but that the Sackcloth muſt be long too. But afterwards, upon Account of the Croſſes being taken away, and that the Sackcloth might differ from the Monk's Cloak, it was reduced to a ſhorter Meaſure. In ſome Tribunals alſo of *Spain*, another

*Direct. P. 3. com. 42. Param. l. 1. t. 2. c. 5. p. 42.*

kind of penitential Garment was in Uſe. For upon ſuch Criminals as were not convict, but only vehemently ſuſpected of Hereſy, they uſed to put a half penitential Garment, covering the Breaſt only, which was marked only with one Line, of a red Colour, and not with two croſs ones, as the whole Sackcloth uſed to be marked with, that it might be hereby ſhewn, that he was not truly and formally an Heretick, but vehemently ſuſpected of Hereſy.] This Cloak the *Italians* call *Abitello*, the *Spaniards*, *Sant benito*, as tho' it was *Sacco benito*, *i. e.* the bleſſed Sackcloth, becauſe it is fit for Penance, by which we are bleſſed and ſaved. But *Simancas* ſays, 'tis the Garment of St. *Benedict*. The wearing it is commanded, 4 *Inſtruct. c.* 9. They pretend that the Foundation of this Habit is to be found in the ſacred Writings, becauſe thoſe who ſuffered formerly for their Impieties, were, beſides other Penances, ſometimes cloathed with Sackcloth, in order to implore the divine Mercy, and to render God propitious whom they had offended, as they ſhew in the Example of *Achab*, 1 Kings xxi. 27.

But *Ludovicus a Paramo* carries its original higher, *viz.* that as God cloath'd our firſt Parents with Garments of Skins, in Token of Confuſion and perpetual Shame, ſo the Inquiſitors, at this Day, in Imitation of God, cloath ſuch as are convicted of Hereſy, with theſe bleſſed Sackcloths, with oblique Croſſes on them, to the proper Ignominy and Confuſion of thoſe who wear them. And he gives this Reaſon why theſe ignominious Garments are called *bleſſed Sackcloths*. Becauſe formerly Sinners were cloathed with bleſſed Sackcloths, in Token of publick Penance, and was taken upon a voluntary Vow by the Penitents themſelves. But this Cuſtom, in Proceſs of Time, came into Diſuſe; and becauſe antiently theſe Sackcloths were bleſſed in the Primitive Church, therefore they were called *bleſſed Sackcloths*. And therefore the Inquiſition, in Deteſtation of the Crime of Hereſy, hath renewed the Cuſtom of publick Penance and bleſſed Sackcloth. He gives alſo a very ridiculous Reaſon, why the Croſſes, which were formerly ſtrait, are now made oblique, upon the penitential Garments. *Becauſe the Croſs is the external Sign, by which all the Worſhippers of Chriſt profeſs the Catholick Faith. Since therefore they who offend againſt the Catholick Faith, deviate from the Rectitude of the Faith, the Inquiſitors are uſed to cloath Penitents with theſe tranſverſe Marks, in Token of ſuch Deviation, that it may appear to all by the Figure of the oblique Croſs, what is the inward State of him that wears it, what he hath been, and how he hath wandered from the Rectitude of the Faith and of the Chriſtian Religion.* l. 1. t. 2. c. 4, 5.

Theſe Croſſes are put on thoſe, who have believed Hereſies, and ſometimes on thoſe who have been Dogmatiſers, but who immediately, upon their being found out and informed againſt before the Biſhops and Inquiſitors, depart from their Errors, and conſent to abjure them. Such are more gently dealt with, and 'tis eaſier to have a Diſpenſation as to their Penance. For either they are to wear their Croſſes only for a Time, or if they are injoined them for their whole Life, after they have worn them for ſome Years, in another Sermon or Act of Faith, they leave them off again, or if they are in an ill State of Health, or if the Penitent be remarkably humble, and truly converted.

verted. But such a Dispensation is the more difficultly obtained, because the publick wearing these Crosses may make great Satisfaction in Behalf of those who carry them, yea, it may be greatly meritorious in them, because of the great Degree of Shame which such Persons endure, and may be, and is a considerable Warning to others.

Simanc. c. 47. §. 11, 12. He who throws off, or conceals this Garment, is to be punished as an Impenitent. Nor can the Inquisitors themselves, now in *Spain*, moderate the Time which they have fixed for the wearing it; both because their Office is discharged after they have pronounced from the Tribunal, and because this Matter is reserved to the Inquisitor General and Council. 4 *Instruct.* c. 9.

§. 13. This Habit of the Penitents, and Sackcloth of condemned Hereticks, is to be hung up in the Church of that Parish where they dwelt, that these sort of Ensigns may be a Monument to keep up the everlasting Remembrance of their Impiety; for the Names of the Hereticks, and the Reasons of their Condemnation are to be inscribed and renewed on them. *Madrid Instruct.* An. 1561. c. 81. *viz.* after the Example of *Moses*, *who made broad Plates for a Covering of the Altar, of the Censers of the two hundred and fifty Men who had offered Incense to the Lord, that they might be a Memorial and a Sign to the Children of* Israel, *Numb.* xvi. 39, 40.

§. 14. If any one steals these Ensigns, 'tis the common Opinion, that he is to be punished at the Pleasure of the Judges, not as a Thief or sacrilegious Person, but as a Contemner of Religion and the Judges, and must therefore be whipped, or fined, or banished.

Finally, the most grievous Punishment is the being condemned to perpetual Imprisonment, there to do wholesome Penance with the Bread of Grief, and the Water of Affliction. This is usually injoined on the Believers of Hereticks, and such as are difficultly brought to Repentance, or who have a long while denied the Truth during the Trial, or have perjured themselves. For because such Persons do not seem to be voluntarily and willingly converted, they will not allow them their Liberty, lest being feignedly converted, as may be easily presumed, they should corrupt others. There is a Decree of the Council of *Tholouse* on this Affair, c. 10. *But as to those Hereticks, who thro' Fear of Death, or any other Cause, but not voluntarily, return to the Catholick Unity, let them be shut up in Prison to do Penance, by the Bishop of the Place, with such Caution, as that it may not be in their Power to corrupt others.* And the Council of *Biterre*. *If any one of the Professed, or Consolati, will, thro' Fear of Punishment, return to the Faith, let him be committed to perpetual Imprisonment by the Bishop, lest under the Shew of pretended Good the Church should be deceived.* Thus also the Emperor *Frederick* in L. *Commissi*, §. 2. Nor are those only who are very difficultly converted from Heresy, condemned to perpetual Imprisonment, but also certain other Persons, whose Crimes committed in the Cause of Faith are very remarkable, which the Council of *Narbonne*, held a few Years after that of *Tholouse*, particularly enumerates, in these Words, cap. 9. *But as to Hereticks, or their Believers, who have notwithstanding the aforesaid Immunity, suppressed the Truth concerning themselves or others, or have not come in within the Time of Grace, or who are otherwise unworthy, but yet are ready*

Direct. p. 3. p. 556. Tr. Tr. f. 417.

*ready absolutely to obey the Commands of the Church, and to acknowledge that Truth which they have suppressed or denied, altho' such are without Doubt, according to the Statutes of our Lord the Pope, to be thrust into perpetual Imprisonment; yet inasmuch as we have understood that you have found in several Parts, so great a Multitude of them, as that there is not only not Money enough, but neither Stones nor Mortar sufficient to build Jayls for them; our Advice is, that you defer their Imprisonment as you think it convenient, till our Lord the Pope himself be more fully advised concerning their Number, except possibly any of them should be so very wicked, as that there is too much Reason to fear that they will be impenitent, or escape, or relapse, or corrupt and disturb others. Such Persons are to be sent without farther Delay to a secure and perpetual Jayl.* In our Times this antient Confinement or perpetual Imprisonment, is seldom or never used; but the Bishops and Inquisitors often change it for a Confinement in some Monastery.

But altho' in our Ages the perpetual Jayl is not made after the same Manner in which it was formerly built, yet *Pegna* is of Opinion, that some certain House ought to be procured, and made use of as a perpetual Jayl, in which those who are to be shut up should dwell; because otherwise he can't understand how Penitents can perform the Penances enjoined them. The Order to be observed in these Things is provided for by the *Madrid* Instruction, *An.* 1561. c. 79, 80. *Those who are condemned to perpetual Jayl, shall be consigned to the Keeper of such perpetual Jayl, who must be injoined to keep the Criminals, and to take Care that they fulfill the Penances injoin'd them, and to inform the Inquisitors if they are negligent. Likewise let him take Care to assist them in their Necessities, by procuring for them the proper Implements according to every one's particular Business or Trade, that they may hereby procure something for their own Support, and thus better bear their present Misery and Poverty. Also the Inquisitors are to visit their perpetual Jayl several times in a Year, to see how they live, how they are treated, and what their Condition is. And because in some Inquisitions there is no perpetual Jayl, tho' the Thing be very necessary, they must procure some Houses for this Purpose; because if there be no such Jayl, it can't be understood how those who were reconciled, can fulfil their Penances, or those who are condemned to it be kept in Custody.* But this Case of observing whether they fulfil the Penances injoined them was formerly committed to some Priests, by the Council of *Narbonne*, c. 8. *Let the Care of observing their Penances be committed by you to their proper Priests, so that the Priests themselves having the Penances of their several Parishioners committed to them, and carefully inspecting how they observe them, they may inform, without Delay, against all Contemners, if any such there be to you, or to those whom you shall appoint, that you may proceed against them according to the Form hereafter described.*

Direct. p. 3. comm. 108.

The Manner of this Imprisonment is determined by the Council of *Biterre*, c. 23, 24, 25. *Take Care that each of the Persons to be immured, have, according to the Appointment of the Apostolick See, separate and private Cells, as far as it can be done in the several Cities of the Dioceses that are corrupted, that they may not pervert each other, either themselves or others. But let not the exceeding Rigour of the Jayls destroy them, but you shall cause those who are in Possession of their Effects,*

*to provide for them in Neceſſaries, according to the Statutes of the Council of* Tholouſe, which thus determines, c. 10. "*Let the Perſons who are immured be pro-*
"*vided for in Neceſſaries, according to the Diſpoſition of the Prelate, by thoſe who*
"*are in Poſſeſſion of their Effects. But if they have no Effects, let them be provi-*
"*ded for by the Prelate.*" *But this Puniſhment or Penance of perpetual Impriſonment, ſhall never, from the Beginning of it, be remitted to any of the aforeſaid Criminals, or commuted for another, unleſs it would either reſtore Hereticks, or unleſs becauſe of his Abſence his Children or Parents would be in imminent Danger of Death, or for any other Cauſe, which appears very juſt and reaſonable. Let alſo the Wife have free Acceſs to her immured Huſband, and the Huſband to his Wife, that they may not be denied to cohabit with each other, whether both be immured, or only one.* This Puniſhment of Immuration is very difficultly diſpenſed with, as the Council of *Biterre* hath decreed, *c.* 24. and the Council of *Narbonne*, more clearly, c. 19. *As to Perſons to be impriſoned, we have thought proper to add this; that no one ſhall be excuſed from the Jayl, neither the Huſband for his Wife, though ſhe be younger, nor the Wife for the Huſband, nor any one for his Children or Parents, or other Kindred, or for Weakneſs or Age, or any other the like Cauſe, without the ſpecial Leave of the Apoſtolick See.* However, the Inquiſitors with the Ordinaries have now a Power of diſpenſing, excepting only that it is denied to the
*Com.* 108. Inquiſitors in *Spain*, by the private Sanctions of that Inquiſition; ſo that the Inquiſitor General only diſpenſes in this Caſe, even as he doth alſo with reſpect to the Habit marked with Croſſes. After how long a Time this Diſpenſation may be allowed, is left to the Pleaſure of the Inquiſitors, who, upon conſidering the Humility and Repentance of the Penitents, may remit this Puniſhment within a leſſer while, or commute it for another. But 'tis generally remitted at the Expiration of three Years. But if this Puniſhment of the Jayl is injoined never to be remitted, 'tis generally diſpenſed with at the End of eight Years. But the whole of this depends on the Inquiſitors Pleaſure.

However, this Remiſſion muſt be granted with the Advice of the Dioceſans, as is ordered, *lib.* 6. *decret. de hæret. As to thoſe who humbly obey your Commands, and are ſhut up in Priſon, or in Jayl, upon the Account of Hereſy, we give you full Power, as you ſhall ſee fit, of mitigating or changing their Puniſhment, in concert with the Biſhops, to whoſe Juriſdiction they are ſubject.*

Theſe Remiſſions may alſo be obtained with Money, by which Perſons may redeem themſelves from Jayl, and the Habits of their Guilt; and this Me-
Gonſalv. thod of Redemption uſed to be very common in *Spain*; becauſe, as the
*p.* 166. "King granted certain Redemptions of theſe *Sambenito's* to the Court young
"Ladies and Gentlemen, he who received the Grant, diligently enquires
"where, and who the Perſons are that are ſubject to this Puniſhment, and
"who are moſt inclined and able to redeem it, with whom he afterwards
"agrees about the Price, as he beſt can, either for more or leſs, taking into
"the Account the Perſon that buys it off, and the *Sambenito* it ſelf. Such as
"are irremiſſible, the Price is dearer; ſuch as are ordered to perpetual
"Impriſonment, 'tis cheaper. Such which are but for a Time, and de-
"pending

" pending on the Inquisitor's Pleasure, cheaper yet; and such which depend " on the Inquisitor's Pleasure only, cheapest of all. The King also sometimes " shew'd the same Liberality to some others, who prayed to be assisted with " the Money arising from these Sambenito's, to redeem their Brethren or " Kindred from *Turkish* or *Moorish* Captivity. But if any one desires thus to be " freed from his Sambenito, 'tis necessary before all Things, in order to ob- " tain his Desire from the King, that he before-hand secure the good Will of " the Inquisitors and Secretaries. For otherwise, tho' the King himself should " grant it, and the Money be paid down, they would use all their Endeavours " to frustrate it, and would cunningly and maliciously throw in effectual Ob- " stacles, even by this single Expression, *viz.* that the King ought to be bet- " ter informed of the Affair, and even the Pope himself, if he should have " happened to grant the Absolution. And if the Matter should come thus " far, it would be easy for them, before not over-scrupulous, to invent this " Answer, that the Person was not so throughly purged from his Guilt, as to " render it safe for him to be set at Liberty.

Besides this Condemnation to perpetual Imprisonment, such Persons are also injoined other Penances, *viz.* Sometimes to stand in the Habit marked with the Cross at the Door of such a Church, such a Time, and so long, *viz.* on the four principal Festivals of the glorious Virgin *Mary* of such a Church, or on such and such Festivals, at the Gates of such and such Churches. Concerning this there is a Decree extant of the Council of *Biterre*, *c.* 26. where, after commanding that Penitents should be present at divine Service on *Sundays* and Festivals, this is added, *That on the Mass of every* Sunday *and Festival, between the Epistle and the Gospel, they shall publickly present themselves with Rods in their Hands, stripped of their outward Garment, and with their Veil or Hat off, to the Priest celebrating Mass in the Presence of the People, and there, after having received Discipline, the Priest shall declare, that they suffer this Discipline for heretical Pravity.* Sometimes before they are shut up in Prison, they are publickly exposed, *viz.* being cloathed with the Habit of the Crosses, they are placed upon an high Ladder in the Gate of some Church, that they may be plainly seen by all, where they must stand till Dinner-time, after which they must be carried, cloathed in the same Habit, to the same Place, at the first Ringing to Vespers, and there stand till Sun-set; and these Spectacles are usually repeated on several *Sundays* and Festivals in several Churches, which are particularly specified in their Sentence. However, there is no mention made in the Book of the Sentences of the *Tholouse* Inquisition, of such a Spectacle, on the Account of Heresy, but of two only who were condemned for false Witness. But if they break Prison, or do not otherwise fulfill the Penances injoined them, they are condemned as Impenitents, and as under the Guilt of their former Crimes; and if they fall again into the Hands of the Inquisitors, they are delivered over as Impenitents to the secular Court, unless they humbly ask Pardon, and profess that they will obey the Commands of the Inquisitors. Thus 'tis determined by the Council of *Tholouse*, *Let all such Heretick or Believers of them, who, after they have sworn*

*to obey the Commands of the Church, and either have, or have not obtained the Benefit of Abſolution, refuſing to obſerve and do the Penance of Impriſonment injoined them, either by not going into Jayl, or getting out of it after their Entrance, or any other Penance whatſoever, or thro' Contumacy, abſenting themſelves from receiving it, thus become Rebels, and thus openly manifeſt their Impenitency and feigned Converſion, be left by you, without any farther Audience at all, to the ſecular Judgment, to be puniſhed according to their Deſert, ſince 'tis ſufficient that they have once deceived the Church by a falſe Converſion.*

Pegna, p. 528. They are now alſo condemned to the Puniſhment of the Gallies, becauſe the antient Practice of Immuration is at this Time ſeldom uſed. This is confirmed by *Royas, p. 2. Aſſert.* 15. §. 202. "It was a Cuſtom very frequent "and uſual in the Court of the Inquiſition, that a Perſon condemned to a per- "petual Jayl, ſhould be diſpenſed with by the Inquiſitor General, after three "Years. But that if any one was condemned to perpetual and unredeemable "Impriſonment, if he appeared humble and truly penitent, he ſhould be diſ- "penſed with after eight Years. But now inſtead of perpetual Impriſonment, "Hereticks are condemned to the Gallies, provided they are not weak or aged. "Such Condemnation muſt not be for leſs than three Years, leſt the Exche- "quer ſhould receive more Damage than Benefit by the Expences. Thus "the ſupream and general Council of the Inquiſition hath decreed. Theſe "are the Puniſhments of Penitents.

Others will not depart from their Errors, but obſtinately perſiſt in them for a great while, and at length perhaps more thro' Fear of Death than the Love of Truth, depart from them, or pretend to do it, and abjure; and therefore they don't give much Credit to their Abjurations. Such are ordinarily condemned to perpetual and ſtrict Impriſonment, and to Iron Fetters and Chains, where they are daily allowed the Bread of Grief for Meat, and the Water of Affliction for their Drink. To this Purpoſe is the Decree of the Council of *Biterre*, c. 23. *Take Care however, that, according to the Appointment of the Apoſtolick See, ſeparate and ſecret Cells be appointed to ſuch as are to be immured, as it can be conveniently done in the ſeveral Cities of the corrupted Dioceſes, that they may neither be able to pervert themſelves or others.*

The Inquiſitors may alſo increaſe theſe Penances, if the converted Perſons want Devotion, or are malicious and quarrelſome, becauſe theſe Things ſhew that their Mind and Soul is far from being obedient to the Law of God, or the Commands injoined them. Hence it is that the Council of *Narbonne* gives this Caution to the Inquiſitors, *c.* 7. *This Reſtriction always carefully obſerved, that it may be lawful for you, or the other Inquiſitors, or thoſe to whom the Church of* Rome *ſhall think proper to commit this Affair, or he to whom it belongs by Office, according to your or their Pleaſure and Will, to add to, or take from the Penances injoined at any time for a reaſonable Cauſe.* The Council of *Biterre* gives this farther Caution, *c.* 22. *Always retaining to your ſelves this Power, that if you ſhall think it expedient for the Affair of the Faith, you may, without any new Cauſe, bring back again the aforeſaid Perſons to Jayl.* Hence alſo in the Book of the Sentences of the *Tholouſe* Inquiſition, the Inqui-

ſitors ordinarily reſerve this Power to themſelves. And if the Inquiſitor, either thro' Forgetfulneſs, or other Cauſes, hath not expreſsly reſerved this Power to himſelf, he may nevertheleſs increaſe, change, remove, or leſſen theſe Penances. According to C. *Ut Commiſſi*, de hæret. l. 6.

## CHAP. XXXIII.

### *When and how far any one is to be admitted to* PENANCE.

'TIS a very important and difficult Queſtion amongſt the Popiſh Doctors, and very intricate, at what Time, and how penitent Hereticks are to be admitted. And that it may be more diſtinctly underſtood, I will here give the Opinions of three celebrated Doctors in this Matter. The firſt is *Simancas*, who uſes many Diſtinctions in the Solution of this Queſtion.

" For either he is a concealed Heretick, diſcovered by no one, and accuſes *tit.* 47.
" himſelf to the Inquiſitors, and plainly confeſſes his Errors. Such a one, §. 27.
" without Doubt, is to be received, and ought not to be injoined publick
" Penance, but is to be ſecretly abſolved. Or he hath been publickly an A- §. 28.
" poſtate or Heretick in another Kingdom, and before any one gave Evi-
" dence againſt him, he voluntarily returns to a ſound Mind, and asks Par-
" don and Abſolution from the Inquiſitors. Such a one alſo is to be admitted,
" but he muſt publickly abjure his Errors, and do wholeſome Penance. But
" he muſt not ſuffer the Puniſhment of Impriſonment, nor wear the Habit
" of Penitents. 1 *Inſtruct.* c. 8.

" Or he comes to the Inquiſitors thro' Fear of impending Proofs, and §. 29.
" diſcovers his Confederates in Wickedneſs, and fully confeſſes his Errors;
" and ſuch a one alſo, tho' Witneſſes come in againſt him, is to be reconciled
" to the Church, but is more gently to be dealt with; for he muſt not be con-
" demned to perpetual Jayl, nor wear for any conſiderable Time the peni-
" tential Habit. Or he is already apprehended, and thrown into Priſon, and §. 30.
" then confeſſes his Hereſies, and then his Confeſſion is ſaid to be voluntary.
" He alſo who upon Admonition confeſſes his Hereſies, before the Evidence §. 31.
" of the Witneſſes is ſhewn him, is to be kindly received, and not condemned
" to perpetual Jayl, becauſe he confeſſes before he is convicted by Witneſ-
" ſes, 1 *Inſtruct.* c. 11. Or he confeſſes after the Accuſation is publiſhed, and §. 32.
" is then to be admitted, but puniſhed more ſeverely; becauſe he would not
" confeſs before he was informed, and made fully to underſtand by the Accu-
" ſation of what Hereſies he was accuſed. Or he confeſſes after being con- §. 33.
" victed by the Witneſſes, *i. e.* after the Publication of the Evidence. For
" altho' ſuch a one doth not ſeem to return voluntarily, who is ſcarce perſuaded
" at length to confeſs his Errors, and beg Pardon, after being tired out with
" the Diſmalneſs of his Jayl, after ſeveral Admonitions, after Accuſation,

" the Publication of the Evidence, six hundred Perjuries, and several Months,
§. 44. " yet inasmuch as being in Prison he confesses of his own Mind and Will his
" Errors, without being compelled by Violence, he is adjudged to confess
§. 45, 46. " voluntarily. Farther, they think that he also confesses voluntarily,
" whose Confession is violently, *i. e.* by Torture drawn from him. For al-
" tho' the first Confession is drawn from him by Torment, yet is it not suffi-
" cient to the Proof or Condemnation, unless he afterwards confirms it by
" a voluntary Confession. And therefore when the Criminal ratifies of his
" own Accord the extorted Confession, they say he is not to be looked upon
" as acting herein unwillingly, nor his Confirmation as extorted by Force,
" but that 'tis altogether voluntary, and that therefore if the Confession be
" just that such a one is to be admitted: And 'tis then accounted just, when
" the Penitent testifies it with Tears, Groans, and Humility.

§. 46. " 'Tis also farther inquired, whether a Person is to be received to the Bosom
" of the Church after the definitive Sentence, even till he is delivered to the se-
" cular Court. Here the Laws determine that Penitents may be admitted
" till the definitive Sentence, but that afterwards there is no Place for Pardon
" and Mercy.

*p. 2.* The Opinion of *Royas* is different, who thus proposes and resolves it.
*Assert.* 15. " 'Tis no small Controversy amongst the Professors of the Law, until what
" Term and Time converted Hereticks are to be received. Some say, if
" they immediately and voluntarily return after the Discovery of their Er-
§. 192. " ror. Others, that Hereticks may return to the Faith after Sentence, and
" are then to be admitted, and may escape the Punishment of being turned
" over to the secular Court. Others, that they may be received only till the
" pronouncing of the Sentence. Concerning which Matter the *Seville* In-
" struction treats, *c.* 12. and that of *Madrid*, *An.* 1561. *c.* 4. But if negative
" Hereticks are converted in a publick Act of the Faith, their Conversion
" is presumed to be feigned and counterfeit, and that they are converted ra-
" ther thro' Fear of Death, than a Zeal for the Catholick Faith. For this
" Reason such a kind of Conversion is very seldom or never to be admitted,
" unless very urgent Causes arise, *viz.* if any one should confess his Errors
" with many Tears and Signs, and not only those of which he is accused,
" but others also, and farther discover his Accomplices, especially if they
" are Persons related to him, and beloved by him. By these and other Cir-
" cumstances, which depend wholly on the Pleasure of the Inquisitors, it may
" be examined whether the Conversion be real or feigned. Cap. *Ut officium*,
" §. *si vero*, versio, *Proviso solerter*.

§. 197. " Altho' the Conversion of Hereticks and their Confession is to be waited
" for during the whole Process of the Trial, yet he who at the Beginning of
" the Trial confesses before Accusation, is to be condemned to Imprisonment
" and the penitential Habit for a short Season; but if he confesses after Accu-
" sation, his Punishment and Penance is to be encreased. But he who con-
" fesses his Heresies after the Publication of the Evidence, is to be condemned
" to perpetual Prison, because 'tis presumed that he confesses thro' the Fear

" of Proofs, and therefore ſuch a Converſion is not without its Suſpicion. *In-*
" *ſtruct. Hiſpal. An.* 1484. *c.* 14. In all the aboveſaid Caſes the Effects are
" confiſcated, according to the Cuſtom generally obſerved by all the Inquiſi-
" tors. For 'tis in the Power of the Biſhop and Inquiſitors to mitigate or
" change the Puniſhment, even after the Sentence is paſſed. Cap. *Ut Commiſſi*,
" §. *nec non*, de hæret. 6. 1 *Inſtruct. Hiſpal. c.* 8, 11. This Determination
" takes place to this Day, before the pronouncing of Sentence, but after 'tis
" pronounced, the Inquiſitor General only can diſpenſe with and change it.
" 5 *Inſtruct. Hiſpal. c.* 7. and 4 *Inſtruct. Tolet. c.* 7. But as to the Confiſcation
" of Effects, this is never left to the Pleaſure of the Inquiſitors, but the com-
" mon Law is ever to be obſerved, becauſe, from the Time of the Commiſ-
" ſion of the Crime, the Effects of Hereticks are *ipſo jure*, confiſcated. And
" therefore no one can deprive the Exchequer of this Right.

The third is that of *Camillus Campegius*, who ſeems rather to relate the O- *In* Zan-
pinions of others, than to propoſe his own. " Some ſay that in the Admiſ- chin.
" ſion to Penance there is need of a Diſtinction. For either the Judge finds *c.* 16.
" the Perſon to be ſome ſimple young Man or Woman, or elſe otherwiſe a
" Perſon of good Condition and Fame; who is fallen into the Crime of
" Hereſy. Such ought not to be denied to recant even till the very Sen-
" tence, and eſpecially if there is Reaſon to hope that they will lead a better
" Life for the future. Or elſe the Perſon is one of an evil Condition and
" Fame, found in other Reſpects criminal, or he hath long perſevered in this
" Crime, or hath been otherwiſe lightly ſuſpected of it, or one of whom there
" is no Reaſon to hope there will be any future Amendment. The late Repen-
" tance of ſuch a one ought not to be admitted. Theſe Circumſtances and
" Caſes conſidered, the Judge may ſooner or later admit them to Abjuration
" and Penance.

" There are not wanting ſome who determine that none are to be received
" who do not return voluntarily, and without Force; and that they only re-
" turn voluntarily who ask Mercy within the Time of Grace, without being
" previouſly informed againſt by an Accuſer; or at leaſt whilſt the Cauſe re-
" mains untried, they themſelves not being corporally taken up, nor con-
" victed by Proofs. For in theſe Caſes they don't appear to return voluntarily,
" but thro' Fear of being apprehended, and of the Proofs. But this Opi-
" nion is rejected by others as too ſevere; becauſe it would follow from hence,
" that ſuch a one, willing to return, could not be more gently treated than
" an obſtinate Perſon, inaſmuch as he muſt be condemned without Hope of
" Pardon equally with one obſtinate. Beſides, the Text, *Extra. de hæret. c.*
" *ad abolendam*, and C. *penult*, expreſsly ſays, that Hereticks may be received
" after the Diſcovery of their Error.

By comparing theſe Opinions together, it appears, that they are all of this Mind, that in order to any one's being admitted to Repentance, he muſt manifeſt it before Sentence is pronounced. They eſpecially require that he ſignify it before Sentence given, or at leaſt before Publication of it. But if he remains impenitent, he is perſuaded not only before he is brought out in Proceſſion,

ceſſion, but even on the very Scaffold, and oftentimes, and moſt earneſtly admoniſhed to forſake his Errors and abjure. The Method of doing it is this. The Sentences of the Penitents and Converts, if any ſuch there be, are read firſt, and laſt of all thoſe of the Impenitents, if there are any. But before the pronouncing of them, they are admoniſhed before all the People to repent, and at length to be converted, becauſe there is yet Room for Mercy. If they ſay they will be converted, they are carried back to Jayl, and admitted to Penance. If they perſevere obſtinate and impenitent, the Sentence is read, and they are delivered to the ſecular Court, that being burnt in ſight of the People, they may ſuffer the Puniſhments due to their Impenitency. But however, as to thoſe who do not convert themſelves till they are actually on the Scaffold, and the Sentence is going to be pronounced, the *Madrid* Inſtruction, *An.* 1561. *c.* 44. adviſes, that they are not to be admitted to Penance but upon the moſt extraordinary Conſiderations; becauſe they appear to be converted rather thro' Fear of inſtant Death, than the Love of true Repentance.

*n.* 204. 'Tis certainly the Opinion of *Eymerick*, that even ſuch ought to be admitted to Repentance. But *Pegna*, tho' he thinks this Opinion of *Eymerick* to be the ſafer, yet determines that to be the more juſt, which leaves to Criminals Room for Mercy only, till they are brought forth from the Jayls of the Inquiſitors, and that after this they are by no Means to be heard. *Zanchinus* *c.* 16. §. 4. *Ugolinus* ſaith, that ſuch a one is ſo far to be received, as that he may eſcape the Puniſhments of the Soul, *i. e.* the Puniſhments of Hell; and therefore may be admitted to the Eccleſiaſtical Sacraments, and abſolved from the Excommunication he was under, if he ſhews Signs of true Repentance; but that he is by no means to be admitted to eſcape corporal or temporal Puniſhment, becauſe he came in too late who ſtaid for his Sentence. *Extra. de hæret.* c. *Super eo.* l. 6. Others ſay this is wholly arbitrary, and depends merely on the Pleaſure of the Judge, whereas others do not think it at all ſafe, that the Life of Penitents ſhould depend on the Will of the Judges.

However, after Sentence pronounced, there is no farther Place for Pardon. And yet there is one Inſtance of *Stephana de Proaudo*, extant, in the Book of the Sentences of the *Tholouſe* Inquiſition, who, being judged an Heretick the Day before, and left as an Heretick to the ſecular Court (from whence it appears that it was not then uſual for thoſe who were left to the ſecular Court to be burnt the ſame Day, on which the Sentence is pronounced, as is now practiſed in *Spain* and *Portugal*) ſeeing on the following Day, *viz. Monday*, that the Fire in which ſhe was to be burnt was made ready, ſaid, on that very Day that ſhe was willing to be converted to the Catholick Faith, and to return to the Eccleſiaſtical Unity. And when 'twas doubted whether ſhe ſpoke this feignedly or ſincerely, or thro' Fear of Death, and was anſwered, that the Time of Mercy was elapſed, and that ſhe ſhould think of the Salvation of her Soul, and fully diſcover whatſoever ſhe knew of her ſelf or others concerning the Fact of Hereſy, which ſhe promiſed to ſay and do, and that ſhe would die in the Faith of the holy Church of *Rome*; upon this

this the Inquiſitor and Vicars of the Biſhop of *Tholouſe* called a Council on the following *Tueſday*, and at length it was concluded, that on the following *Sunday* ſhe ſhould confeſs the Faith of the Church of *Rome*, recant her Errors, and be carried back to Priſon, where it would be proved whether her Converſion was real or pretended; and ſo ſtrictly kept, that ſhe might not be able to infect others with her Errors. *Eymerick* alſo gives us an Inſtance at *Barcelona* in *Catalonia*, of three Hereticks impenitent, but not relapſed, who were delivered over to the ſecular Arm. And when one of them, who was a Prieſt, was put in the Fire, and one of his Sides ſomewhat burnt, he cried to be taken out of it, becauſe he would abjure and repent. And he was taken out accordingly. But he was afterwards found always to have continued in his Hereſy, and to have infected many, and would not be converted, and was therefore turn'd over again as impenitent and relapſed, to the ſecular Arm, and burnt. *n.* 204.

The Author of the Hiſtory of the Inquiſition at *Goa*, gives us another Inſtance of a very rich new Chriſtian, whoſe Name was *Lewis Pezoa*, who, with his whole Family, had been accuſed of ſecret *Judaiſm*, by ſome of his Enemies, and who, with his Wife, two Sons and one Daughter, and ſome other Relations that lived with him, were all thrown into the Jayl of the Inquiſition. He denied the Crime of which he was accuſed, and well refuted it, and demanded that the Witneſſes who had depoſed againſt him, might be diſcovered to him, that he might convict them of Falſhood. But he could obtain nothing, and was condemned as a Negative, to be delivered over to the Arm of the ſecular Court; which Sentence was made known to him fifteen Days before it was pronounced. The Duke of *Cadaval*, an intimate Friend of the Duke *d'Aveira*, Inquiſitor General, had made ſtrict Enquiry how his Affair was like to turn. And underſtanding by the Inquiſitor General, that unleſs he confeſſed before his going out of Priſon, he could not eſcape the Fire, becauſe he had been legally convicted, he continued to intreat the Inquiſitor General, till he had obtained a Promiſe from him, that if he could perſuade *Pezoa* to confeſs, even after Sentence pronounced, and his Proceſſion in the Act of Faith, he ſhould not die, tho' it was contrary to the Laws and Cuſtom of an Act of Faith. Upon that ſolemn Day therefore, on which the Act of Faith was to be held, he went with ſome of his own Friends, and ſome that were *Pezoa*'s, to the Gate of the Inquiſition, to prevail with him, if poſſible, to confeſs. He came out in the Proceſſion, wearing the infamous Samarre, and on his Head the Caroch, or infamous Mitre. His Friends, with many Tears, beſought him in the Name of the Duke *de Cadaval*, and by all that was dear to him, that he would preſerve his Life, and intimated to him, that if he would confeſs and repent, the ſaid Duke had obtained his Life from the Inquiſitor General, and would give him more than he had loſt. But all in vain, *Pezoa* continually proteſting himſelf innocent, and that the Crime it ſelf was falſly invented by his Enemies who ſought his Deſtruction. When the Proceſſion was ended, and the Act of Faith almoſt finiſhed, the Sentences of thoſe who were condemned to certain Penances having been read, and on the Ap- *Cap.* 38.

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proach of Evening, the Sentences of those who were to be delivered over to the secular Court being begun to be read, his Friends repeated their Intreaties, by which at last they overcame his Constancy, so that desiring an Audience, and rising up, that he might be heard, he said, *Come then let us go and confess the Crimes I am falsly accused of, and thereby gratify the Desires of my Friends.* And having confessed his Crime, he was remanded to Jayl. Two Years after he was sent to *Evora*, and in the Act of Faith walked in Procession wearing the Samarre, on which was painted the Fire inverted, according to the usual Custom of the *Portuguese* Inquisition; and after five Years more that he was detained in the Jayl of the Inquisition, he was condemned to the Gallies for five Years.

p. 47. §. 73. Finally, *Simancas* proposes and resolves a Question concerning another Case, *viz.* "Whether an Heretick converted after a definitive Sentence, who says "that he will repent, and discover other Hereticks to the Judges, and is "upon that Account returned to the Inquisitors by the secular Judge, and "makes a full Confession before them, is to be left again to the said secular "Judge. This Question in the former Age was actually debated by the In-"quisitors of *Cuenca*, and after the supream Judges and skilful Men had been "consulted, they unanimously answered, that such a Penitent was not to be "left again to the secular Court; both because he had made a true Confes-"sion before the Inquisitors, and therefore ought not to be delivered up by "them, and because the secular Judge seems to renounce his own Right, by "delivering to the Inquisitors the Heretick that had been turned over to "him." Add to this, that 'tis neither consistent with Goodness nor Equity, that he who is now neither impenitent nor relapsed, should, upon any Account, be delivered over to the secular Power.

## CHAP. XXXIV.

### *How the* PROCESS *ends against a relapsed* PENITENT.

*Direct. p. 3. n. 197. com. 45.* IF the accused Person is found a Relapse by his own Confession, but penitent, professing that he believes in a Catholick Manner, and is willing to return to the Unity of the Church, the Bishop and Inquisitor send to him two or three good Men, and especially Religious, or Clergymen, zealous for the Faith, neither suspected by, nor ungrateful to him, who, upon some convenient Hour go to him, and after discoursing with him in the first Place concerning the Contempt of the World, the Miseries of this present Life, and the Joys and Glories of Paradise, do afterwards, in the Name of the Bishop and Inquisitor, discover to him, that inasmuch as he is relapsed, he can't escape temporal Death; and that therefore he ought to be careful of the Salvation of his Soul, and prepare himself for the Confession of his Sins, and the Reception

ception of the Sacrament of the Euchariſt. And theſe Admonitions they repeat till he hath confeſſed his Sins, and humbly deſires that the Sacrament of the Euchariſt may be given him, becauſe the Eccleſiaſtical Sacraments are not to be denied to a relapſed Penitent, if he humbly deſires them. Cap. *Super eo* de hæret. lib. 6. After having received theſe Sacraments, and by this Means being, in their Opinion, rightly prepared for Salvation, the Biſhop and Inquiſitor order the Ballive of the Place, or the chief Magiſtrate of the ſecular Court, to be ready with his Attendants ſuch a Day or Hour, in ſuch a Street or Place, to receive from their Court ſuch a Relapſe, which they will deliver to him; and that on the ſame Day, or the Day before he ſhall make Proclamation by the Crier throughout the City, in all the uſual Places and Streets, that on ſuch a Day, Hour and Place, the Inquiſitor will make a Sermon for the Faith, and that he and the Biſhop will then condemn a certain Relapſe, by delivering him over to the ſecular Court.

Here they differ, whether a condemned Perſon may be delivered over to the ſecular Court, on *Sunday*, or a Holy-day. In many Cities of *Europe* 'tis a Cuſtom, that the Inquiſitors do not deliver over to the ſecular Court Relapſes, or Impenitents, on a Holy-day, but on ſome other; and therefore the Criminal, two or three Days before he is burnt, is removed from the Houſes or Jayls of the Inquiſitors, to the Jayls of the ſecular Judges. But in *Spain* and *Portugal*, all Things relating to the Act of Faith are done on ſome Feſtival, to ſtrike the greater Terror into the People.

In like Manner they are not all agreed, whether when the Criminals are delivered over to the ſecular Court, the Act of Faith ought to be celebrated within the Church, or without it. In *Spain* and *Portugal* ſuch publick Acts of Faith are held without the Church, and, generally ſpeaking, in a large and open Street or Market, and upon very high Scaffolds, that all the People may more eaſily and clearly ſee, which could not be done ſo conveniently within the Church.

Matters being thus ordered, if the Perſon to be delivered over to the ſe- *n.* 198.
cular Court is in holy Orders, a Prieſt, or of any other Degree, he is, before he is turned over, ſtripped of the Prerogative of the whole Eccleſiaſtical Order, or, as they call it, degraded, that being deprived of every Dignity that might exempt him from the ſecular Power, he may be delivered over to it.

This Degradation is twofold, one verbal, the other actual. The verbal is, when the Biſhop pronounces Sentence againſt a Clergyman, by which he deprives him of all Clerical Orders, or rather of the Miniſtry or Execution of thoſe Orders, which is more properly Depoſition. The actual is, when the Clergyman is not only deprived by Sentence, but alſo deprived actually and perſonally, ſtripped and deſpoiled of his Eccleſiaſtical Orders; and this takes Place in the Crime of Hereſy, when the Perſon is to be deliver'd over to the ſecular Court. But if he is only to be perpetually impriſoned, they only make uſe of verbal Degradation.

In order to an actual Degradation, a certain Number of Judges was formerly required. In the Case of a Bishop, twelve Bishops were requisite; of a Presbyter, six Bishops; and of a Deacon, three. But because in the Affair of Heresy, it would be difficult for so many Bishops to assemble, to degrade a Religious, already judged by the Judges of the Faith, the Bishop, according to a Power granted by *Gregory* IX. calls together the Prelates, Abbots and Religious Men of his Diocese, to be present on the Day appointed for this Ceremony. The Bishop himself, cloathed in his *Pontificalibus*, assisted by the Prelates of his Diocese, places before him the Person to be degraded, cloathed with all his Vestments, just as if he was going to divine Service, and degrades him from his Order, beginning with the highest, and so gradually descending to the lowest. And as in conferring Orders, the Bishop uses a Form of Words appointed by the Church for this Purpose; so also in degrading, when he deposes him from the Cloak and the Gown, and other Degrees, he uses Expressions quite the contrary, by which he declares he deprives him of this Order.

So that the conferring of Orders, and the Degradation from them are performed in a Manner, and with Ceremonies directly contrary to each other. For when Orders are conferred, they begin from the lowest till they gradually rise to the highest. First, they confer the Order of the Door-keeper. The Bishop takes the Keys from the Altar, and delivering them to him when he appoints a Door-keeper, says, *Do this as one who must give an Account to God for the Things locked up by these Keys.* The Bishop ordains the Reader with this Ceremony. The People being present at his Ordination, the Bishop delivers him a Book, in which are written the Things belonging to his Function, saying, *Receive it, and be thou a Rehearser of the Word of God, and if you faithfully and profitably fulfill your Office, have part with those, who from the Beginning have administred well the Word of God.* The Bishop ordains an Exorcist, by delivering to him a Book, in which the Exorcisms are contained, using this Form of Words, *Receive and commit to Memory, and have Power of laying Hands upon the Possessed, whether baptized, or Catechumens.* In the Ordination of an Acolythist, this Ceremony is observed. After the Bishop diligently admonishes the Persons to be ordained of their Office, he delivers to each of them Wax-lights, after this manner. *Receive the Candlestick with the Wax-light, and know that you are ingaged to light the Tapers of the Church, in the Name of the Lord.* Then he delivers to him the empty Flaggons, in which they serve up Water and Wine at the Sacrifice, saying, *Receive the Flaggons to minister Wine and Water for the Eucharist of the Blood of Christ, in the Name of the Lord.* When the Bishop ordains Sub-Deacons, he admonishes them, that the Law of perpetual Continence is injoined this Order, and declares that no one is taken into the Order of Sub-Deacons, who is not voluntarily determined to submit to this Law. After this, when the solemn Prayer of the Litanies is said, he enumerates and explains what are the Duties and Functions of the Sub-Deacons. When these Things are done, all those who are to be ordained, receive from the Bishop the Chalice and sacred Pattens; and from

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the Hands of the Arch-Deacon, to let them know that the Sub-Deacon is to aſſiſt the Deacon's Office, the Flaggons full of Wine and Water, together with the Baſon, and Napkin with which they wipe their Hands; and the Biſhop ſays, *You ſee what Miniſtry is hereby committed to you, therefore I admoniſh you, ſo to behave your ſelves, as that ye may pleaſe God.* Beſides this, they uſe ſome other Prayers. At laſt after the Biſhop hath put the ſacred Veſtments on the Sub-Deacon, at every one of which proper Words and Ceremonies are uſed, he delivers him the Book of the Epiſtles, and ſays, *Receive the Book of Epiſtles, and receive Power to read them in the holy Church of God, as well for the Living as for the Dead.* In the Ordination of a Deacon the Biſhop uſes a greater Number of more ſolemn Prayers, and adds other Ornaments of ſacred Veſtments. Beſides this, he lays his Hand on him, and finally delivers him the Book of the Goſpels, with theſe Words. *Receive Power to read the Book of the Goſpel in the Church of God, as well for the Living as for the Dead, in the Name of the Lord.* The Biſhop ordains a Prieſt with theſe Rites. In the firſt place, he, with all the Prieſts who are preſent, lay their Hands on him; then fitting the Veſt to his Shoulders, he brings it over on his Breaſt in Form of a Croſs; after this he anoints his Hands with holy Oil, and delivers him the Chalice with the Wine, and the Patten with the Hoſt, ſaying, *Receive Power of offering Sacrifice to God, and of celebrating Maſſes, as well for the Living as for the Dead.* At laſt he lays his Hands again upon his Head, ſaying, *Receive the Holy Ghoſt, whoſe Sins you remit, they ſhall be remitted to them, and whoſeſoever you retain, they are retained.*

Degradation is performed by Words and Ceremonies directly contrary. We have an Inſtance of this in the Book of the Sentences of the *Tholouſe* Inquiſition, in one *John Philibert*, a Presbyter, who had joined himſelf to the *Valdenſes*, and whom by Order of the Pope, the Arch-Biſhop of *Tholouſe*, in the Room of the Biſhop of *Aux* his Dioceſan, who was dead, degraded from all his Orders in the Preſence of the Abbots, and Prelates, or their Vicars, and delivered over to the ſecular Court. For after he was ſet before them in his Sacerdotal Veſtment, they ſtripped him of all his Ornaments, uſing certain Expreſſions. The Chalice and Patten: *We take from you the Chalice and Patten, and ſtrip and deprive you of the Office and Power of offering Sacrifice to God, and of celebrating any Maſs.* The Prieſt's Veſt: *We take from you the Prieſt's Habit or Veſt, ſince you have deſpiſed to wear the eaſy Yoke of the Lord repreſented by it, and to preſerve the Veſt of Innocence.* [To this Ceremony there is another immediately ſubjoined, which was obſerved in the Degradation of one *James*, a pretended Minorite. "After this the Biſhop immediately takes out the Anointing, by ſlightly ſcraping with a Piece of Glaſs, ſo as not to draw Blood, thoſe Places of the Hands which had been anointed, drawing the Glaſs from the right Hand Thumb to the left Hand Fore-finger, and then again from the left Hand Thumb to the right Hand Fore-finger, as is the Manner when the Biſhop anoints any Perſon for a Prieſt." And thus by taking away all the Marks of the Prieſthood, he is deprived of the Ornaments of the other Orders.] The Surplice: *We take from you the Surplice,*

*fol.* 137.

*Lib. Carnat. fol.* 105.

*Surplice, the Ornament of the Diaconal Office, ſince you have not worn it as the Covering of Gladneſs, and the Garment of Salvation.* The Book of the Goſpels: *We take from you the Book of the Goſpels, and ſtrip and deprive you of the Office and Power of reading in the Church of God.* The Diaconal Veſt: *We take from you the Diaconal Veſt, and ſtrip and deprive you of the Power of exerciſing the Diaconal Office.* The Chalice, Patten, Flaggon, Water, Baſon and Napkin: *We take from you the Chalice, Patten, Flaggon, Water, Baſon, Napkin, the Inſtruments of the Sub-diaconal Office, and ſtrip and deprive you of the Uſe of them.* The Sub-Deacon's Tunick: *We take from you the Tunick, the Ornament of the Sub-diaconal Office, ſince you have not uſed it to Righteouſneſs and Salvation.* The Maniple*: *We take from you the Maniple, the Ornament of the Sub-diaconal Office, and we ſtrip and deprive you of the Miniſtry deſigned thereby.* The Book of the Epiſtles: *We take from you the Book of the Epiſtles, and diveſt and deprive you of the Power of reading them in the holy Church of God.* The Candleſtick: *We take from you the Candleſtick, and diveſt and deprive you of the Office of lighting the Tapers in the Church.* The Flaggon: *We take from you the Flaggon, that from henceforth you may not uſe it in ſerving up Wine and Water for the Euchariſt of the Blood of Chriſt.* The Book of Exorciſms: *We take from you the Book of Exorciſms, and deprive and diveſt you of the Power of laying your Hands upon the Poſſeſſed, whether baptized, or Catechumens.* The Book he received when made Reader: *We take from you the Book you received with the Order of Reading, and diveſt and deprive you of the Power of reading it any more in the holy Church of God.* The Keys: *We take from you the Keys of the Church, and diveſt and deprive you of the Office and Power of keeping the Things locked up with thoſe Keys, and of opening or ſhutting the Gates of the Church. By the Authority of Almighty God, Father, Son, and Holy Spirit, and alſo by the Power committed to us, as aforeſaid, in this Affair, we take from you the Clerical Habit, and depoſe and alſo degrade you, from all Prieſtly, and every other Order, and diveſt and deprive you of every Clerical Honour, Benefice and Privilege. And therefore we farther pronounce and declare to the noble Perſon, the Lord* Guiardo Guido, *Seneſchal of* Tholouſe, *here preſent, that he ſhall receive you, thus degraded, into his Court. However, we earneſtly require and beſeech him, that he will ſo moderate the Sentence concerning you, as to prevent the Danger of Death, and maiming of Limbs.* After theſe Things his Head is ſhaved, before the ſecular Court receives him. [This ſhaving the Head is performed in this manner. The Biſhop begins to pull out ſome few of the Hairs of his Head with Nippers, after which the Barber finiſhes it with a Razor, ſo that there remains on it no Mark of his Tonſure or Clericate.]

*Lib. Catenat. fol. 106.*

After the Degradation is performed, Sentence is pronounced againſt him as a Relapſe, and he as ſuch, altho' penitent, is caſt out of the Eccleſiaſtical Court, and delivered to the ſecular Arm. But they generally add this Clauſe to ſuch Sentences, by which a Relapſe, or impenitent Heretick, or any other, is delivered to the ſecular Arm. *Nevertheleſs we effectually beſeech the ſaid ſecular Arm, that he will moderate his Sentence concerning you, ſo as to prevent the*

* *Manipulus.* An Eccleſiaſtical Veſtment, called alſo the *Sudarium*, which the Prieſts wear on the left Arm.

*Effuſion*

*Effuſion of Blood, and Danger of Death*; according to Cap. *Novimus*, de verb. ſign. where, after 'tis commanded that a Clergyman degraded ſhall be delivered to the ſecular Court, 'tis added, *For whom nevertheleſs the Church ought effectually to intercede, that the Sentence may be moderated, ſo as to prevent Danger of Death*; *viz.* leaſt the Inquiſitors, when they deliver Criminals to the ſecular Judges, ſhould ſeem to conſent to the Effuſion of Blood, and thereby become irregular.

When this Sentence againſt a Relapſe is concluded, the Biſhop and Inquiſitor don't ſhew it to the Criminal, leſt he ſhould be enraged againſt them; but they ſend to him certain good Men, eſpecially Religious or Clergymen, not unacceptable to him, who diſcover to him the Sentence to be pronounced againſt him, and the Death to be inflicted on him, to confirm him in the Faith, to exhort him to Patience, to accompany him after his Sentence, to comfort him, and pray with him, and not to depart from him, till he hath returned his Spirit to his Creator. But they muſt diligently take Care, that they do not ſay or do any Thing by which the Death of the relapſed Perſon may be haſtned, *viz.* by exhorting him when condemned, to offer his Head to the Executioner, or to go up the Ladder, or to ſay to the Hangman ſo to direct his Sword, as to ſtrike off his Head at one Blow, and not at ſeveral, or to ſay or do, or perſuade to any Things of like kind, by which his Death would be ſooner effected, altho' the ſame would have hapned, altho' theſe Words or Actions had never been; becauſe they contract Irregularity by theſe Things. Who would not believe that theſe Men deteſted with all their Soul every Effuſion of Blood, who ſo effectually intercede for the Condemned, and are ſo extreamly careful not to ſay or do any Thing by which their Death may be haſtned? Here ſome think, that ſuch Penitents relapſed ought to be allowed Eccleſiaſtical Burial, as well as all other Catholicks. But this is contrary to Law and Cuſtom, becauſe their Bodies are burnt with Fire. In this Reſpect however they are dealt more favourably with than the Obſtinate and Impenitent, inaſmuch as theſe latter are burnt alive, whereas the others are ſtrangled before they are burnt, which, as *Simancas* ſays, is more human, and leads to Repentance. *Tit.* 47. §. 17. *n.* 200.

## CHAP. XXXV.

### *How the* PROCESS *ends againſt an impenitent* HERETICK, *and impenitent* RELAPSE.

IF the accuſed Perſon be an impenitent Heretick, but not relapſed, he is kept in cloſe Impriſonment, and put in Chains, that he may not eſcape and infect others; nor is any one allowed to come to him, or to ſpeak with him, except the Keepers, who muſt be good Men, and not ſuſpected concerning the Faith, nor eaſy to be deceived. In the mean while all Methods muſt be uſed for his Converſion, according to the Decree of the Council of *Biterre*, c. 17. *Thoſe who will not be converted, be ſlow, as you conveniently can, to condemn.* *Direct. p.* 3. *n.* 201. *com.* 46.

*condemn them, admoniſhing them frequently by your ſelves and others to confeſs; and if they are finally obſtinate in their Wickedneſs, cauſe their Errors to be publickly declared, in Deteſtation of them, and leave them thus condemned to the ſecular Powers preſent, or their Ballives, according to the Apoſtolick Command.* Herewith the *Madrid* Inſtruction, *An.* 1561. *c.* 43. agrees. *When the Criminal is negative, and hath been legally convicted of the Crime of Hereſy of which he was accuſed, or continues obſtinate, 'tis evident from the Law that he ought to be delivered to the ſecular Court. However, in ſuch a Caſe, the Inquiſitors ought greatly to endeavour his Converſion, that at leaſt he may die in the Grace of God. And here they muſt do all they can conſiſtent with Piety.* So that the Biſhop and Inquiſitor frequently, ſometimes both together, ſometimes apart, muſt cauſe him to be brought before them, to refute his Opinions, and perſuade him into the Faith of the Church of *Rome*. If he doth not ſubmit to their Information, ten or twelve Perſons are ſent to him to inſtruct him, learned Men, Clergymen of different Religions, and ſecular Lawyers, who frequently converſe with him, to ſhew him that his Opinion is contrary to the ſacred Scripture, and the Decrees of the Church of *Rome*. If he is not converted, he is not immediately delivered to the ſecular Arm, tho' he deſires it, but is kept in Chains a long while, half a Year, or a whole one, in a hard and cloſe Jayl, that by the Miſery and Diſtreſs of his Impriſonment, his Conſtancy may be overcome. In the mean while he is frequently admoniſhed, that if he perſiſts he muſt be burnt, and after this Life burn in Hell Fire for ever. But if he is not moved by this Calamity, he is removed into a ſomewhat more comfortable Jayl, and uſed in a little kinder Manner. They alſo make uſe of Promiſes, that if he will turn, he ſhall experience the Mercy of the Judges. If they can neither prevail with him by this Means, they ſuffer his Wife and Children, eſpecially his little ones, if he hath any, and his other Relations, to come to him, to break his Reſolution and Conſtancy. But if after all theſe Methods uſed he perſiſts in his Opinion, the Biſhop and Inquiſitor prepare to deliver him over to the ſecular Court. When therefore the Sermon concerning the Faith is held, the Inquiſitor cauſes his Faults and Hereſies to be read over by the Notary, or ſome other Clergyman, and then asks him whether he will depart from his Hereſies and abjure them? If he conſents to abjure, he is admitted; and having made his Abjuration, he was condemned in the Times of *Eymerick* to perpetual Impriſonment, becauſe he was believed to abjure rather thro' Fear of Death than the Love of Truth. And if he was a Clerick, he was degraded from his Orders, by a verbal Degradation only, *i. e.* he was depoſed from the Function of his Miniſtry.

But if in this Condition he will not repent and abjure his Opinions, as is commonly the Caſe with ſuch Perſons, he is condemned as an obſtinate Heretick, and as ſuch delivered over to the ſecular Court. Cap. *ad abolendam*, §. *Præſenti*, Extrav. de hæret. And whilſt the ſecular Court is performing its Duty, ſome good Men, and zealous for the Faith, may attend him, and perſuade him to the Catholick Faith, and exhort him as yet to turn from his Errors. And 'tis the Opinion of *Eymerick*, that if even then he will be converted,

verted, he may be admitted to Repentance. But *Pegna* judges it more ſafe, not to receive him by any Means, altho' he promiſes a thouſand times his Converſion; both becauſe 'tis provided for by no Law, and becauſe Experience ſhews us that Perſons thus received, ſeldom or ever become good.

If an Heretick impenitent or relapſed be preſent, the Biſhop and Inquiſitor, in Preſence of the Magiſtrate of the ſecular Court, Cap. *Excommunicamus*, 1, 2. *Extrav. de hæret.* declare him impenitent, or relapſed, caſt him out from the Eccleſiaſtical Court, and leave him to the ſecular Arm, or to the Juriſdiction of the ſecular Court. And the ſecular Court, which is in that Place, receives him as one left to their Court and Arm. If he be abſent and fugitive, he is by Sentence declared impenitent or relapſed, and caſt out from the Eccleſiaſtical Court, and left to the ſecular Arm; and whenever the ſecular Court can lay hold of him, he is puniſhed as one obnoxious to that Court, according to the Nature of his Crime, Cap. *ad abolendam*, §. *Præſenti*, Extrav. de hæret.

If the accuſed Perſon be an Heretick impenitent and relapſed, all Reme- *n.* 205.
dies are to be made uſe of for his Converſion, and he is cloſely and carefully confined, and no one admitted to him. But he can't eſcape Death. And therefore they exhort him, inaſmuch as he can't avoid the Puniſhment of Death, to conſult at leaſt the Salvation of his Soul, to confeſs and receive the Sacrament of the Euchariſt. Behold the amazing Charity of theſe reverend Fathers, who when they deliver a penitent Criminal to Death, are ſo ſolicitous about the Salvation of his Soul! But whether he repents or not, he is delivered to the ſecular Court, with a very earneſt Intreaty, ſo to mitigate their Sentence concerning him, as to prevent the Effuſion of Blood, and Danger of Death.

## CHAP. XXXVI.

### *How the* PROCESS *ends againſt a Negative* HERETICK *convicted.*

IF the Perſon accuſed be found in Hereſy either by the Evidence of the Fact, or the legal Production of Witneſſes, and yet he doth not confeſs it, but perſiſts in the Negative, he is at this Day called a convicted Negative Heretick. Concerning theſe the Council of *Biterre* hath thus determined. Cap. 6, 7, 8, 9. *As to thoſe who are Criminals, and contemn to appear within the Time of Grace, or maliciouſly ſuppreſs the Truth, let each of them be cited by Name in their Turn; and if they will not confeſs the Truth found againſt them, read over to them the Heads of the Matters in which they are found criminal, and diſcover to them the Depoſitions of the Witneſſes, and granting them competent Times, and allowing them the Liberty of defending themſelves, receive candidly their legal Exceptions and Replications. And if they fail in their Defence, aſſign them a competent peremptory Time for their Sentence, and condemn them, unleſs they will of their own Accord confeſs the Crime proved againſt them. For they are not to be received to Mercy whilſt they perſiſt in their Denial, how much ſoever they ſubmit themſelves to the Will of the Church.* Thus alſo the Council of *Narbonne*, c. 26. *But if any* *Direct.* *p.* 3. *n.* 207. *com.* 48.

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*one is not afraid obſtinately to deny his Fault, upon account of which he may be judged a Believer of Hereticks, or an Heretick, and which is fully proved by Witneſſes, or other Proofs, as long as he perſiſts in this Denial, tho' otherwiſe he may pretend Converſion, he is, without Doubt, to be accounted an Heretick. For he is evidently impenitent, who will not confeſs his Sin.* In *Spain* the ſame Opinion and Sentence is openly declared for by the firſt *Seville* Inſtruction, *An.* 1484. *cap.* 14. where alſo 'tis provided, that as often as ſuch a Caſe ſhould occur, the Inquiſitors ſhould diligently inquire into the Life and Manners of the Witneſſes.

Pegna, *in Direct. part.* 3. *p.* 565.

An Heretick is alſo judged to be impenitent, altho' he proteſts himſelf to be a Believer, not only when he is convicted of the Hereſy he hath ſaid, but alſo of any heretical Fact, by which he may be judged to be an Heretick, or Believer of Hereticks. This is to be underſtood of one, who denies the heretical Fact of which he is legally convicted; and not of him who confeſſes ſuch heretical Fact, but denies the evil Intention. And theſe are the Reaſons alledged why ſuch a one may be condemned as an impenitent Heretick. Becauſe if the Hereſy of ſuch a Negative is fully and legally proved, it appears to the Church, that ſuch a one is an Heretick, and therefore unleſs he confeſſes and deteſts his Errors, he is deſervedly delivered to the ſecular Court, as an impenitent Heretick. Beſides, he who doth not admit the Errors legally proved againſt him, doth not ſatisfy the Church, tho' he proteſts that he holds the right Faith, the Church firſt demanding Satisfaction for the Hereſies proved, which he denies that he ever ſaid. And therefore not being amended, he may be condemned as an Impenitent, becauſe Pardon of Sin is granted to no one without Amendment. And finally, Confeſſion is neceſſary to true Repentance, nor doth he deſerve to obtain Pardon, who doth not acknowledge his Sin; and therefore as a Negative doth not confeſs his Crime, he is accounted as Impenitent, and therefore is deſervedly to be left to the ſecular Court. *Nor let any one affirm,* ſays *Pegna, that he is by this Means unjuſtly condemned, nor complain of the Eccleſiaſtical Judges, or of the Judgment of the Church which hath thus determined, and which doth not judge of any Thing that is ſecret. But if it ſhould happen that any one is convicted by falſe Witneſſes, let him bear it with Patience, and rejoyce that he ſuffers Death for the Truth.* But before ſuch a Sentence can take place, 'tis, according to their Doctrine, required: Firſt, that the Perſon be convicted either of true and formal Hereſy, *viz.* ſaying there is no Purgatory, and not of a ſcandalous, raſh or ill-ſounding Aſſertion, and the like; or of Facts from which ariſe Hereſy or Apoſtacy. And here there is Need of great Prudence. Secondly, 'tis required that the heretical Words, of which a Negative is convicted, be certain and clear, and not dubious or doubtful, capable of a double Senſe, one heretical, the other catholick; becauſe as doubtful Expreſſions are to be interpreted in the beſt Senſe, the Catholick Senſe is to be received, and the heretical Senſe rejected. Thirdly, that one guilty of an Hereſy which he denies, be convicted by legal and proper Witneſſes, above all Exception, and not by Enemies, or ſingle Witneſſes, or others unfit. Fourthly, that the heretical Fact or Saying, of which the Criminal is convicted, be lately done, and not an old Matter,

Matter, which the Criminal may be ſuppoſed likely to have forgot; becauſe in a Matter done a great while ago, ſuch Forgetfulneſs may be preſumed. Laſtly, that a Negative be convicted by Witneſſes to have aſſerted, that he doth ſo believe himſelf, and that others ought to believe ſo too.

Such a Negative is kept in hard Confinement, and laid in Irons, and is by the Biſhop, Inquiſitor, and others oftentimes admoniſhed to confeſs the Truth, with the Hopes of Mercy if he doth, and the Threatning of being delivered to the ſecular Court if he perſiſts in the Negative. If he ſtill perſiſts in the Denial, the Biſhop and Inquiſitor, either ſeparate, or together, privately examine the Witneſſes themſelves, and by other good Men, and admoniſh them to tell them the Truth privately, that the accuſed Perſon may not die unjuſtly. If the Witneſſes perſiſt in the Affirmative, and the Party accuſed in the Negative, they are examined with greater Care; not that the Witneſſes are confronted with the Perſon they accuſe, that they may be examined together. 'Tis only recommended to the Inquiſitors to uſe Prudence in ſearching out the Truth, leſt it ſhould happen that an innocent Perſon, who can't fully defend himſelf, ſhould be unjuſtly condemned. Thus the *Madrid* Inſtruction orders, *An.* 1561. c. 38. *That the Inquiſitors ſhould carefully conſider in the Defences of the Criminals, that being confined in ſecret Jayls, they can't ſo conveniently defend themſelves, and that therefore they ought to ſupply this Defect by their Diligence and Prudence, in inquiring particularly into the Life, Manners, Enmity or Conſpiracy of the Witneſſes.* If any one of the Witneſſes faulters, or if there are other Signs againſt him, they are taken notice of, that the Truth may be found out. If they are found falſe Witneſſes, or if they retract their Evidence, the accuſed Perſon is pronounced and diſmiſſed as innocent, and they themſelves condemned to perpetual Impriſonment, and oftentimes expoſed as publick Spectacles upon Ladders before the Gates of certain Churches, and their Lives only mercifully ſpared them. But if the Witneſſes perſiſt, and the accuſed Perſon perſiſts alſo in the Negative, having been kept in Jayl for a competent Time, *viz.* a Year, he is at laſt, by the Sentence of the Biſhop and Inquiſitor, caſt out of the Eccleſiaſtical Court as obſtinate and impenitent, and delivered over to the ſecular Arm. So that if it ſhould happen that he is accuſed by falſe Witneſſes, and is really innocent, the miſerable Wretch, tho' falſly condemned, is delivered to the Power of the ſecular Court, to be burnt alive; nor is it lawful for him, without the Commiſſion of mortal Sin, as the *Roman* Doctors think, to ſave his Life, by falſly confeſſing a Crime he hath not committed. And therefore in this Caſe, tho' it may ſeem very hard to ſuch a Negative to die when he is innocent, and for this Reaſon he may poſſibly believe it lawful for him to confeſs the Crimes objected to him to ſave his Life, yet this is not to be ſuffered by any Means; and therefore 'tis the Duty of the Divines and Confeſſors, who comfort ſuch a Negative, and attend on him to his Puniſhment, to perſuade him to diſcover the Truth; but to caution him by all Means not to acknowledge a Crime he hath not committed, to avoid temporal Death; and to put him in Remembrance, that if he patiently endures this Injury and Puniſhment, he will be crowned as a Martyr.

Pegna, p. 567.

'Tis however evident, if the Practice of the *Portugal* Inquisition be considered, that the Inquisitors are not so very solicitous about the eternal Salvation of those they condemn, as they are to consult their own Honour by the Criminals Confessions even of false Crimes. We have seen the Instance of *Lewis Pecoa*, given in Chapter xxxiii. who being led forth in solemn Procession at an Act of Faith, and being at last overcome by the continued Prayers and Tears of his Friends, said, *Come then, let us go and confess the Crimes I am falsly accused of, and thus satisfy the Desires of my Friends*; and having made his Confession, he was saved from the Sentence of Death. The same History of the Inquisition at *Goa*, in the preceding Chapter, gives us another not less remarkable Instance, of a noble *Portuguese*, descended from the Race of the new Christians, who was accused of *Judaism*. But as he did most firmly deny the Crime objected to him, nothing was omitted that might persuade him to a Confession of it; for he was not only promised his Life, but the Restitution of all his Effects, if he would confess, and threatned with a cruel Death if he persisted in the Negative. But when all this was to no purpose, the Inquisitor General, who had some Respect for him, endeavoured to overcome his Constancy by Wheedling and other Arguments; but when he constantly refused to confess himself guilty of a Crime he had not committed, the Inquisitor General being at last provoked by his Firmness, said; *What then do you mean? Do you think that we will suffer our selves to be charged with a Lye?* And having said this he went off. These Words of this Judge, says the History, carry in them a very unbecoming Meaning, and raise Reflections dishonourable enough to the holy Office. For 'tis almost the same as if he had said, we will rather deliver you, tho' innocent, to the Fire, than suffer any one to believe that you were unjustly imprisoned by us. When the Act of Faith drew near, the Sentence of Death was pronounced against him, and a Confessor allowed him to prepare him for Death. But at last he sunk under the Fear of his approaching dreadful Punishment, and by confessing on the very Day of the Act of Faith the Crime falsly fastned on him, he escaped Death; but all his Estate was confiscated, and he himself condemned for five Years to the Gallies.

P. 2. t. 1. §. 10. *Carena* observes, that it sometimes happens, that a Negative Heretick, given over by the Inquisitors to the secular Arm, cites and challenges them to the Valley of *Jehosaphat*, or the Tribunal of God. But if it appears to the Judge that he hath proceeded justly in the Condemnation of a negative Heretick, he ought not to be afraid of his Citation. But if the Judge should not be certain of the Justice of his Sentence, but perceived any Disturbance in his Mind when he pronounced it, then 'tis his Duty more maturely to inquire into all Circumstances, that the former Sentence may be either revoked or confirmed. In the mean while they say, that if such Citation and Appellation be made not thro' Hatred and Revenge, but with a good Design, that his Innocence may appear, and his Family be preserved from Infamy, it is lawful.

Because

Becauſe Negatives conſtantly deny the Crime of Hereſy, and profeſs that they are, and always were Catholicks, and are willing to die in the Faith of the Catholick Church, they are firſt ſtrangled before they are burnt. But *Souza* ſays, that Hereticks convict and negative, if after they are delivered to the ſecular Judge, they do not confeſs before him the Catholick Faith, are burnt alive; becauſe, as it appears that they are Hereticks, ſo by being ſilent when they ought to anſwer, they are looked upon as obſtinate. Thus it was actually judged by all the Judges of the Council of Supplication in the City of *Lisbon*, *An.* 1629. the ſecond *Sunday* of *September*, and twelfth Day of that Month, when, in an Act of Faith then celebrated, three Men, *Hebrews* by Birth, and called new Chriſtians, were delivered over by the Inquiſitors to the ſecular Court for *Judaiſm*, of which they were convicted; who, perſiſting in the Negative, affirmed before the Inquiſitors that they were Chriſtians. And being brought before the ſecular Judges, and interrogated concerning the Faith, would make no Anſwer; upon which they were delivered over to the Officers to be burnt alive, and were accordingly burnt alive. *l.* 3. *c.* 6. §. 11.

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## CHAP. XXXVII.

### *How the* PROCESS *ends againſt a Fugitive* HERETICK.

IF the accuſed Perſon be a Fugitive, after he is waited for a competent Time, he is cited by the Biſhop or Inquiſitor in the Cathedral Church of that Dioceſe where he hath offended, and in other Churches of that Place where he lived, and particularly from whence he made his Eſcape, perſonally to appear on a certain Day in ſuch a Cathedral Church of ſuch a Dioceſe, there to hear, upon a certain Hour, his definitive Sentence before them, to which they add, whether he appears or not, that they will proceed againſt him to a definitive Sentence, as Law and Juſtice require. This Citation is fixed upon the Gates of the Cathedral Church. In this Citation ſome Delay is granted, *viz.* of thirty Days, and that is peremptory, ſo that this ſingle one ſerves for three, in which the Criminal is cited to all and ſingular the Proceedings of his Trial. *Direct.* *p.* 3. *n.* 213; *com.* 49.

If the Criminal doth not appear, his Contumacy is complained of in the ſeveral Terms of the Edict, and the Fiſcal of the Inquiſition puts in his Bill of Accuſation, after which the Proceſs is carried on according to Courſe of Law, obſerving the Cuſtom and Laws of the holy Office. When all this is finiſhed, if the Crime really appears, Sentence is pronounced againſt the Criminal whenever the Proceſs is rightfully and legally determined. If he hath been informed againſt for Hereſy, he is declared an obſtinate Heretick, and as ſuch left to the ſecular Arm. If informed againſt as one ſuſpected of Hereſy, and if excommunicated, becauſe he would not appear, and if remaining under the Sentence of Excommunication for a Year, he is not pronounced

ced an Heretick, but condemned as tho' he was one. But if upon the Expiration of the Year he appears, he is heard as far as relates to the excusing his Crime, and testifying his Innocence; but not in order to recover his Effects, unless he can make his Innocence, or some other just Impediment legally appear. If he is in sacred Orders, he is first degraded, by a verbal Degradation only, because he cannot be actually degraded, inasmuch as he is absent. But *Eymericus* thinks, that the Person, thus degraded, is not to be left to the secular Arm, but that if he will repent, he may freely, and without the Question be admitted to Mercy and Abjuration.

Pegna, *in Direct.* *part.* 3. *com.* 91.

This whole Affair is prescribed the Inquisitors of *Spain*, by a certain first Instruction, Cap. 19. *They have likewise decreed, that the Inquisitors may proceed against Criminals in the said Crime of Heresy, altho' absent, by citing the aforesaid absent Persons by publick Edicts, which they shall cause to be published and fastned to the Doors of the principal Church of the Place or Places where they dwelt. Now the Inquisitors may form Processes against Absentees by one of these three ways. First, according as 'tis prescribed,* Cap. cum contumacia, *de hæret.* lib. 6. viz. *by citing and admonishing the Absentees to appear to defend themselves, and answer, according to Law, upon certain Articles relating to the Faith, and upon a certain Crime of Heresy,* &c. *under Pain of Excommunication, with their Admonitions in Form. But if he doth not appear, they shall command the Promotor Fiscal to accuse him of Contumacy, and to demand Indictments or Bills more fully charged, by which he may be denounced. But if he continues in his Obstinacy for the Space of a Year, they may declare him an Heretick in Form of Law. And this Method of Process is the safest, and least severe. The second way is this, That if it shall appear to the Inquisitors, that the Offence ought to be fully proved against any Absentee, they may cite him by Edicts, as aforesaid, to come and answer and declare according to his Right, and to shew his Innocence within 30 Days, divided into three Terms, every Term consisting of ten Days; or they may allow them a longer Time, if they think proper, according to the Distance or Remoteness of the Places, in which 'tis or may be presumed that the aforesaid cited Persons dwell; whom they ought to cite to all the Acts of the Process, even to the definitive Sentence inclusively; in which Case, if the Criminal doth not appear, his Contumacy shall be complained of in all the Terms of the Edict, and the Inquisitors may receive his Denunciation and Accusation from the Fiscal, and draw up his Process in Form. And when all this is done, if the Crime appears to be sufficiently proved, they may condemn the Absentee, without waiting for him any longer. The third Method to be observed in drawing up the Process against the Absentee, is this; that if in the Management of the Process made in the Inquisition, there appears to be a Presumption of Heresy against the Absentee, altho' the Crime doth not seem to be fully proved, yet the Inquisitors may order an Edict against such Absentee noted and suspected of the Crime of Heresy, and command him to appear within a certain Time to free himself, and canonically to purge himself from the said Error or Crime; with this Addition, that if he doth not appear to receive and perform the aforesaid Canonical Purgation, or doth not free or purge himself, they will look on him as a Convict, and proceed to act according to Law. And this Form of Process is a little too severe; but still 'tis rightly founded upon Law, and prudent*

*and*

*and learned Inquiſitors may chuſe a Method which they judge more ſafe, and may be better uſed in Practice, according to the different Cauſes that may ariſe.*

And leſt the Sentence againſt Fugitives may ſeem to be pronounced in vain, 'tis uſually publiſhed before all the People, and the Image, or, as they commonly call it, the Statue of the abſent Perſon is publickly produced, on which there is a Superſcription fixed, containing the Name and Surname of the abſent obſtinate Perſon who is condemned, which Statue is delivered to the ſecular Power, on which he executes the Sentence and Penalty of Burning, as he would do upon the abſent Perſon himſelf, if he were preſent, unleſs he would turn, or upon a Perſon otherwiſe relapſed. Thus, as *Lewis a Paramo* tells us, the Statue of *Sigeſmond Malateſta* was burnt at the Gates of St. *Peter*; and the Statue of *Luther*, after he had been cited, and did not appear, was alſo burnt, together with his Books, at the Command of *Leo* X. by the Biſhop of *Aſcoli*, and *Silveſter Prieriates*.

Pegna, *Ibid.* p. 574.

*l.* 2. *t.* 2. *c.* 1. *n.* 6.

When this Cuſtom of burning the Statues of abſent Criminals began, is uncertain. *Pegna* believes it not to be very antient, becauſe neither *Eymerick*, who, with great Diligence, hath treated of every Thing relating to Practice in this Crime, nor any other of the Antients, who have written of the Order of proceeding againſt Hereticks, have mentioned this Cuſtom; nor is there to be found any ſingle Trace of it in the *Vatican* Copy, nor in that of the moſt illuſtrious Cardinal *Sirletto*, where there are many Things, and even the moſt minute Things concerning the Method of judging and puniſhing Hereticks. But yet he thinks it very commendable, and proper to ſtrike Terror, and therefore altogether fit to be uſed.

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## CHAP. XXXVIII.

### *Of the Method of proceeding againſt the Dead.*

PRoceſs is alſo carried on againſt the Dead for the Crime of Hereſy. Now it may happen ſeveral ways, that a Perſon may be judged an Heretick after Death. *Firſt*, If before his Death the Inquiſition againſt him was begun, and his Crime appeared either by his own Confeſſion, or the Evidence of the Fact, or the legal Proof of Witneſſes, and the Criminal dies before the Proceſs is ended, either confeſſed and impenitent, or negative or relapſed. *Secondly*, If being in Jayl for Hereſy he kills himſelf, for by thus deſtroying himſelf, he ſeems to confeſs the Crime. *Thirdly*, If, tho' when alive, his Hereſy did not appear, and he was not accuſed of it, yet, if after his Death, it at any time appears that he died an Heretick, either by the Depoſitions and Atteſtations of others, or by Facts, or Deeds, or Books compoſed by him, or by any other legal Reaſons. This Proceſs is carried on againſt the Dead before this Tribunal, chiefly for theſe three Ends; That their Memory may

*Direct.* p. 3. *Qu.* 43. *com.* 92.

be

be condemned, that the Heirs of the Dead, or any other Poſſeſſors of their Effects, may be deprived of them by the Fiſcal; and finally, that the dead Bodies may be taken up, caſt out of holy Ground and burnt, as 'tis determined by the firſt Inſtruction of *Seville*, *An.* 1484. *c.* 20.

This Action againſt the Dead, when carried on in order to the Confiſcation of their Effects, is ſaid to laſt for 40 Years. Thus 'tis determined, *cap.* 2. §. 1. *de præſcript. l.* 6. That the Effects of deceaſed Hereticks ſhall be the Catholick Childrens and Heirs by Preſcription, at the End of forty Years, if ſo be they have poſſeſſed them *bona fide*. The ſame is determined by the Inſtruction of *Seville*, *An.* 1484. *cap.* 20. Now the Children and Heirs of the Deceaſed ſhall then be ſaid to have poſſeſſed his Effects *bona fide*, when, at the Time of his Death, and for the whole Space of forty Years they have believed and underſtood that the Perſon deceaſed died a Catholick. But if within theſe forty Years they have at any time been informed that he died an Heretick, they ſhall never plead Preſcription, becauſe from that time they began to be in *mala fide*; and if therefore they have been thus in Poſſeſſion of them, *mala fide*, the Fiſcal of the Office of the Inquiſition ſhall ſeize on ſuch Effects even after forty Years. As to what regards the Condemnation of the Memory of the Dead, ſuch an Action is never hindred or determined by any Intervals of Time. For even when 40 Years and more are elapſed, the Inquiſitors may, when ever 'tis diſcovered and legally proved that any one died an Heretick, carry on an Action againſt him to condemn his Memory, and declare him to have diedexcommunicated, and to forbid any one from praying for him, and to dig up his Bones, if poſſible, that they may be burnt; for he with whom 'tis not lawful to have any Communication when alive, 'tis neither lawful to have it with him when he is dead. But altho' the Children eſcape this Confiſcation of their Eſtates, if they have been in Poſſeſſion of them *bona fide* for forty Years, they incur however the other Penalties which the Laws have decreed to the Children of the Condemned, *viz.* Infamy and Incapacity for all publick Offices and Benefices.

Formerly a Father was preſumed to die in Hereſy, when ſick on his Bed, he deſired Conſolation from any one of the *Albigenſes* by Impoſition of Hands. And therefore 'twas cuſtomary for Children, to prevent their being excluded from their Patrimony, to object that their Parents were not in their Senſes when they deſired that Conſolation. Hence aroſe a Queſtion, whether ſuch an Excuſe ought to be admitted.

'Tis decided, cap. *Filii*, de hæret. l. 6. *The Children or Heirs of thoſe, who, when on their Death-beds have deſired Hereticks to comfort them, that they might receive the Conſolation from them by Impoſition of Hands, according to their moſt wicked Cuſtom, and thus go the Way of all Fleſh, ought not to be admitted to prove, that ſuch deceaſed Perſons received this Conſolation, or more truly this Deſolation, when they were not of a ſound Mind, or after they loſt their Speech, ſince, as 'tis ſaid, 'tis their Cuſtom never to conſole ſuch a one who is not in his Senſes, and hath not his ordinary Memory, if whilſt they lived they were defamed for Hereſy, or ſuſpected, or if it legally appears that, being in their Senſes, they deſired ſuch Hereticks. In other Caſes the aforeſaid Children or Heirs may be admitted to prove the Premiſes,*

*miſes, not by their Wives, Children, Acquaintance, or any that belong to them, but by other Witneſſes worthy of Credit, and eſpecially by Perſons zealous for the Faith.*

Here there is a double Method of excuſing ſuch Perſons propoſed. *Firſt*, If it be proved that the deceaſed Perſon, when alive, was not ſuſpected or defamed of Hereſy, but lived in good Repute, and received the Sacraments of the Church after a Chriſtian Manner, at proper Times, and performed other Things which are uſually done by true and Catholick Chriſtians. *Secondly*, If it can be ſhewn that he was not of a ſound Mind, when he deſired the Conſolation of Hereticks, which muſt be done one of theſe two ways: Either by ſhewing, that he was at a certain Time mad, and that 'tis to be preſumed that he committed the Crime whilſt the Madneſs laſted, and during the Time of ſuch Madneſs; and in this Caſe the Fiſcal or Judge, if he proceeds *ex officio*, muſt prove, that the Offence was committed when the Perſon was himſelf: Or by ſhewing, that by the Violence of his Diſtemper he was diſturbed in Mind, and deprived of his Reaſon; for ſometimes Perſons are delirious in a Diſtemper, eſpecially in old Age, who in Health were in full Poſſeſſion of their Senſes and Reaſon. Theſe Proofs muſt not be made by their Wives, Children, or other Relations, but by Witneſſes above all Exception, and in the laſt Caſe skilful Phyſicians are principally to be regarded. If the Children fail in this Proof, their Excuſe is not to be admitted.

Farther, ſince a Criminal at the Article of Death ought to be ſacramentally abſolved, if he confeſſes, and is ready to obey the Commands of the Church, according to the firſt Council of *Orange*, cap. 2. *As to Hereticks who lie at the Point of Death, if they deſire to be Catholicks, let the Presbyters, if there be no Biſhop to do it, ſign them with the Chriſm and Benediction*; hence it oftentimes happens, that Perſons dying have confeſſed Hereſy to a Prieſt, and received their Abſolution from him. And as no Action can be carried on againſt the Dead, unleſs it be preſumed that they died impenitent, there aroſe formerly a Queſtion in the Council of *Tarragona*, whether the Prieſt, who aſſerts that he abſolved any one from Hereſy, ought to be credited? This Queſtion was at that Time of great Importance, becauſe if the Prieſt affirming this Matter was to be believed, the Inquiſitors could not proceed againſt ſuch a one after his Death. The Matter was thus decided in the Council of *Tarragona*. *It is alſo inquired: What if any one ſhould confeſs to his Prieſt Hereſy, or favouring of Hereſy, before the Inquiſition began againſt him, and ſhould be afterwards called on by the Inquiſitors? In ſuch Caſe his Confeſſor muſt be believed; and if he be found to have rightly confeſſed by the Confeſſion of the Prieſt, altho' the Prieſt hath done ill in not ſending him to the Biſhop, yet the Perſon confeſſing may avoid temporal Puniſhment by ſuch Confeſſion, unleſs it be diſcovered that his Repentance was falſe, or that he relapſed after his Repentance, or was publickly defamed.* Direct. p. 2. com. 25.

The Council of *Narbonne* hath made this Determination in the Caſe, c. 28. *Whether or no the Confeſſor alone is to be believed concerning the Abſolution or Repentance of a dead or living Perſon, altho' it ſeems plain enough that he ought not, yet that nothing may be imputed to the Church, let the Anſwer of the Lord Pope be waited for.* But now this Queſtion is at an end, becauſe Confeſſors have no Power of

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abſolving Hereticks. Such a Caſe may however happen, *viz.* when any one is abſolved by Virtue of any Jubilee, in which the Pope grants the Power of abſolving from ſuch a Crime: Or when an Heretick abſolutely concealed, or mental, is abſolved, whoſe Hereſy is afterwards diſcovered, and himſelf proceeded againſt. A like Caſe may happen in an Heretick, who being about to die, repents, and becauſe there is no room to reconcile him to the Church, according to the ordinary Courſe of Law, is abſolved by ſome private Prieſt when at the Point of Death, and afterwards recovers; or if he doth not recover, is accuſed after his Death to the holy Office.

In theſe and the like Caſes they ſay, that if any one will make uſe of the Teſtimony of a Confeſſor, yet the Inquiſitor ought not to neglect the Courſe of Law upon account of ſuch a Witneſs. *Gregory* XIII. in a certain Bull of Jubilee, *An.* 1572. declared, That Perſons abſolved in the penitential Court, are to be looked on as abſolved only in that Court or Judgment, and that therefore they ought to make Satisfaction in the external or judicial Court. And therefore now no Perſon receives any Advantage by excepting that he received Penance in the internal Court. The Reaſon is, becauſe penitential Puniſhment injoined in the internal Court hath this Tendency, that hereby the Penitent may make Satisfaction to God and his Soul. Whereas temporal Puniſhment regards the Puniſhment of the Body, and is an Inſtance of publick Juſtice, whereby the Commonwealth is ſatisfied, which hath been injured by the ill Example of the Offender. And as there is a double Puniſhment, ſo there is a twofold Judge. One which injoins Penance whereby the Criminal may be freed from eternal and ſpiritual Puniſhment, and this is the proper Prieſt; the other he who injoins temporal Puniſhment, and this is the Judge of the Place where the Offence is committed, or alſo the ordinary Judge of the Offender. Hence it follows, that as the Prieſt is not the proper Judge of this Crime, but the Inquiſitor and Biſhop, Abſolution given by a Prieſt can't hinder the Proceſs of the proper Judge.

Zanchin. c. 34.

However, no Action is to be carried on againſt a dead Perſon, or rather his Memory is not to be condemned, unleſs the Proof be full, according as 'tis determined by the Inſtruction of *Avila*, An. 1498. c. 4. *Nor let any dead Perſon be cited to a Trial, nor any Proceſs be carried on againſt his Memory or Reputation, unleſs there be full Proof that he may be thereby condemned.* When therefore there are any ſuch preceding Proofs, the Fiſcal inſtantly demands, by putting in a Bill, that ſuch a Criminal may be proceeded againſt. This Accuſation is exhibited to the Children or Heirs, or others whom it may concern, that the Memory of the Deceaſed ſhould not be condemned, and if there are any Deſcendants of the dead Perſon, they are perſonally cited to defend his Memory, according to the *Madrid* Inſtruction, *An.* 1561. *c.* 61. Thus alſo the Council of *Biterre* formerly ordained, *c.* 18. *Proceed in like manner to the Condemnation of Hereticks or their Believers, who have not been canonically reconciled before their Death, giving firſt a Citation to their Heirs, or others, who, according to Law, ought to be cited, and allow them a proper Liberty of defending them.* And that no one may pretend Excuſe or Ignorance,

rance, the Children or Heirs of the Deceaſed, or any others whom it may concern, are alſo cited by publick Edicts to come and make a legal Defence for him, and a legal Term is aſſigned them for their Appearance. After ſuch Term is elapſed, if no one of the afore-cited Perſons appears, the Inquiſitors appoint one to undertake the Defence, a pious and faithful Man, and fit for the Buſineſs, who is to propoſe the legal Excuſes and Defences for the Deceaſed. To this Perſon they communicate the Accuſation and Evidence againſt the Deceaſed, and injoin him Secreſy, and to confer concerning the Affair only with the Advocates of the holy Office, that ſo the Proceſs may be carried on according to the due Order and Courſe of Law. But if any one appears, he is admitted to defend the Deceaſed's Memory. Nor doth it ſignify, if the Perſon appearing as Defendant in this Cauſe, be noted for Hereſy, or under Inquiſition, or in Priſon; becauſe as it may happen, that both the Deceaſed, and the Defendant under Inquiſition, may be both freed from the Proſecution carried on againſt them, 'tis allowed him, that no Prejudice may be done to any one, and becauſe it may be for his own Advantage, to appear in Defence of the deceaſed Criminal, according as the *Madrid* Inſtruction hath determined in the afore-cited Place. And farther, the *Avila* Inſtruction, *An.* 1498. *cap.* 4. determines, *That the Proceſs againſt a dead Perſon ſhall be ſpeedily finiſhed, and that the Inquiſitors ſhall not put off the Cauſe for want of Proof, unleſs poſſibly 'tis likely, that within a little while, other kind of Proofs may ariſe.* But when the Criminal is not convicted upon full Proof, he is immediately to be abſolved. And the afore-cited Inſtruction gives this Reaſon of the Decree; becauſe unleſs it were thus, the Sons and Daughters of the Deceaſed under Proſecution, if his Cauſe ſhould be put off, would not poſſibly find any Perſons to marry with, and could not diſpoſe of the Effects left by the Deceaſed. But if after the Deceaſed is abſolved there appear new Witneſſes againſt him, there may be a new Action commenced againſt him, becauſe, in this Crime, in Favour of the Faith, Sentences pronounced are not to be taken as an adjudged Caſe. And the former Evidences alſo ſhall retain their intire Force, and be added to thoſe which ariſe anew, in order to make full Proof.

When all theſe Things have been duly obſerved, if it appears that the Deceaſed is to be abſolved, the Sentence of Abſolution is publickly pronounced, becauſe as publick Edicts were ſet forth againſt him, at the Beginning of his Proceſs, he is therefore to be publickly declared abſolved, that he may be reſtored to his Reputation. But if his Memory is to be condemned, he is pronounced to have died in Hereſy, his Memory is condemned, his Effects confiſcated, his Bones dug up, and if they can be diſtinguiſhed from the other Bones of Catholicks, to be publickly burnt.

And thus we read that the Bones and dead Bodies of ſeveral Hereticks have been unburied and thrown away, or burnt. *Peter John*, of the Dioceſe of *Biron*, followed and taught the Errors of *Joachim*, Abbot of St. *Flour*, and publiſhed concerning this Affair ſeveral Books upon the Revelation of St. *John*, and the Goſpel of *Matthew*. Theſe Books were afterwards diligently

Bzovius, *A.* 1199. §. 39.

examined by many Doctors in Divinity by Authority of the Pope, and at a ſolemn Meeting at the Court of *Rome*, were condemned and burnt. *Peter* alſo himſelf, by Command of the ſame Prelate, was taken up out of holy Ground, and by the general Vote and Sentence declared an Heretick, tied to a Stake and burnt. There lived alſo, ſome Years ago, in *Italy*, in the *Breſciano*, a certain Perſon, of ſo great Integrity and Severity of Life, that ſome affirmed that, when alive, he was the Succeſſor of *John Baptiſt* himſelf, and on this Account greatly reverenced him after his Death. The Inquiſitor of the Faith having been informed by the Evidence of the Faithful, that he was tinctured with Hereſy, and that he died out of the Communion of Believers, with the Advice of the Biſhop, commanded his dead Body to be unburied, and thrown into the Fire. At *Faenza* in *Lombardy*, an Abbot buried a certain Heretick in the Church of St. *Hippolytus* the Martyr. *Innocent* commanded the Abbot and Monks to take up the Corps, and to obſerve the Interdict his Church was laid under on that Account. Maſter *Almericus* was alſo turned out of his Grave, and buried in a Field.

*Idem.* *An.* 1233. §. 11.

*An.* 1207. § 8.

*An.* 1209. §. 11.

But that we may not look for more Examples than we need, we have a famous one of this ſort of Condemnation, in the Synod of *Conſtance*, againſt *John Wickleff*, in the eighth Seſſion. *Inaſmuch as by the Authority of the Sentence, and Decree of the* Roman *Council, and by the Command of the Apoſtolick See, after the proper Delays, Proceſs was carried on concerning the Condemnation of* John Wickleff *and his Memory, Edicts being ſet forth, and Denunciations to ſummon all, if any there be, who are willing to defend him or his Memory; having farthermore examined Witneſſes concerning the final Impenitence and Obſtinacy of the ſaid* Wickleff, *by Commiſſaries deputed for this Purpoſe, and obſerved all Things to be obſerved, as the Order of Law requires in this Caſe, and his Impenitence and final Obſtinacy being evidently proved by legal Witneſſes, the Matter was legally believed and aſſented to. And therefore at the Inſtance of the Procurator of the Exchequer, and after putting forth an Edict for hearing of Sentence as on this Day, this holy Synod declares and determines, that the ſaid* John Wickleff *was a notorious Heretick, and died obſtinately in his Hereſy, by anathematiſing him, and likewiſe condemning his Memory, and decrees that his Body and Bones, if they can be ſeparated from the other Bodies of the Faithful, ſhall be taken up, and thrown out from the Burial of the Church, according to the canonical and legal Sanctions. And the Judges being interrogated whether they were content, anſwered, Content. And they approved all the aforeſaid Matters.*

Bzovius, *An.* 1556. §. 36. E. Thuan. *Hiſt. Con. Tvid. l.* 5. *p.* 451.

There was a like Edict in *England* againſt the dead Bodies of *Bucer* and *Fagius*. For when Cardinal *Pool*, the Pope's Legate in *England*, went, after Queen *Mary*'s Inauguration, to the Univerſity of *Cambridge*, to reſtore all Affairs there, they began the Proceſs of taking up the dead Bodies of *Bucer* and *Fagius*. The dead Perſons were cited by a firſt and ſecond Edict, and ſeveral Witneſſes produced againſt them once and again. When no one appeared who would undertake their Defence, they were at laſt condemned for Contumacy, and on the ſaid Day Sentence was pronounced before all the Orders of the Univerſity, and their dead Bodies were ordered to be dug up, and

delivered to the Queen's Officers. After ſome few Days, whilſt the Sentence was ſent to *London*, an Order came from the Queen that the Puniſhment ſhould be inflicted. Finally, on the ſixth of *February* the Bodies were dug up, and a large Stake fixed into the Ground in a certain Part of the Market-place prepared for that Purpoſe, to which the Bodies were tied, and a large Pile of Wood placed round them to burn them. After this the Cheſts were ſet up on end with the dead Bodies in them *, and faſtned on both Sides with Stakes, and bound to the Poſt with a long Iron Chain. After the Pile was ſet on Fire, they threw a great Number of the Books of the Proteſtants into it, which they had gathered together, which were ſoon conſumed by the ſpreading Flames. Not long after this, *Brookes*, Biſhop of *Gloceſter*, dealt in the ſame Manner at *Oxford*, with *Catharine*, the Wife of *Peter Martyr*, who dying about † four Years ago, was buried in *Chriſt-Church* near St. *Frideſwide*'s Relicts, who was held in great Veneration in that College. For being ‖ convicted that ſhe had embraced her Huſband's Hereſy, ſhe was condemned, her dead Body taken up, carried upon Shoulders, and thrown upon a Dunghill.

Beſides this, the Statue of ſuch deceaſed Perſon is now brought forth in publick, on which the Name of the Perſon, whoſe Memory is to be condemned, is written in large Characters, and before which all the erroneous or heretical Articles, and all the heretical Deeds or Works, which have been legally proved againſt the Deceaſed, are recited in the ſame Manner in which they were done, as tho' the Deceaſed himſelf was living and preſent. This Statue is delivered to the ſecular Court, which the ſecular Judge afterwards burns, as he would have burnt the Deceaſed, if he had been living, and died obſtinate.

We have a very famous Inſtance of ſuch a Sentence pronounced againſt a dead Perſon, in this Age, by the Inquiſition at *Rome*, in *Mark Anthony de Dominis*, as *Bzovius* relates it under the Year 1479. §. 12. and following. He left the Church of *Rome* and the Arch-Biſhoprick of *Spalato*, and came into *England* in the Year 1616. and publiſhed Books containing the Reaſons of his Departure, and alſo concerning the Eccleſiaſtical Republick. Thoſe Books were condemned as heretical at *Rome*, and himſelf cited to appear and purge

* They were buried, as *Fox* tells us, in Cheſts.

† *Fox* ſays, two Years.

‖ *Fox* aſſures us, that *Brookes*, Biſhop of *Gloceſter*, *Nicholas Ormanet*, *R. Morwen*, Preſident of *Chriſt-Church* College, *Cole* and *Wright*, coming to *Oxford* as the Cardinals Viſitors, ſummoned before them all that had any Acquaintance with her or her Husband, and miniſtred an Oath to them, that they ſhould not conceal any Thing that was demanded of them; and that being examined, their Anſwer was, that they knew not what Religion ſhe was of, becauſe they did not underſtand her Language. But that notwithſtanding this, the Cardinal by his Letters ordered the Dean of *Frideſwide* to dig her up, which the Dean accordingly did that Evening, and buried her in a Dunghill. After this, in Queen *Elizabeth*'s Reign, ſhe was, by Order of *Parker*, Arch-Biſhop of *Canterbury*, *Grindal*, Biſhop of *London*, and others, the Queen's high Commiſſioners, taken up out of the Dunghill, and buried in her former Place, and her Bones mixed with thoſe of *Frideſwide*, that they might never afterwards know one from the other.

himſelf within ſix Months before the Congregation of the Univerſal Inquiſition. As he did not appear, after having obſerved the uſual Methods in that Office, he was pronounced an Heretick, excommunicated, deprived of all Dignities, Benefices and Offices whatſoever, and to have incurred all the other Penalties which are preſcribed by the ſacred Canons.

Some Years after he privately abjured his Hereſies, and having publiſhed a Writing declaring his Intention to depart out of *England*, he was received into Favour by Pope *Gregory* XV. and had granted him an Houſe, Proviſion, Money, and other Things neceſſary for himſelf and Family, yearly, according to his Archiepiſcopal Character, and beſides this, a noble Eccleſiaſtical Penſion. This Bounty of the Pope many Perſons beheld with envious Eyes. More than this, he was reſtored to his Honours, ſo that he was afterwards ſtated in the Habit and Enſigns of his Dignity, in the Seſſions, and all other Things, as tho' he had never fallen from his Rank. Theſe Honours, as *Bzovius* ſays, puffed him up with Pride, which he diſcovered in his Gate, Countenance, and Converſation, as tho' he had been called, not to receive Mercy, but to Triumph.

Not long after this he was informed againſt by certain Religious and others, before the Aſſembly of the Univerſal Inquiſition, that he was not afraid privately to ſpread the Errors he had abjured, and that he commended a certain Agreement cried up by himſelf between the Catholicks and Hereticks, and threw out Words contrary to the Authority of the Councils, and eſpecially that of *Trent*, and that tho' oftentimes admoniſhed, he would not abſtain from ſuch Diſcourſes. Upon this they examined Witneſſes concerning the Matters denounced according to the Sanctions of the Law; and as he was particularly ſaid to endeavour an Eſcape, and to gather up his Effects in order to return to his own Country, he was apprehended and put in Priſon, not ſuch as Hereticks are uſually confined to, but in the Caſtle of *Adrian*, where the firſt Quality are uſually impriſoned, ſome of his Domeſticks being allowed to attend him.

Being thus taken into Cuſtody, and his Writings, according to Cuſtom, diligently examined, one was found amongſt them concerning the Sacrament of Matrimony, in which there were ſeveral heretical Propoſitions. Upon this Friar *Deſiderius Scalea*, a Predicant, Cardinal of *Cremona*, one of the general Inquiſitors, whom the Pope had delegated to carry on the Inquiſition, and to take Cogniſance of the whole Cauſe, admitted other proper Witneſſes, and ſuch as were beyond all Exception; after which *Mark Anthony* himſelf being brought before him, confeſſed moſt of thoſe Things which he had plainly abjured. He added, that he believed that the Church of *Rome* and the Proteſtants agreed in all fundamental Articles, and that as to other Things wherein they differed, they were not equally neceſſary; but that it might be allowed to the Proteſtants to abound in their own Senſe, at leaſt till theſe Things were more fully examined, becauſe it might be doubted whether they were ſufficiently diſcuſſed and determined by the Council of *Trent*; and that therefore ſuch Articles might be ſubjected to a new Diſputation be-

tween Catholicks and Proteſtants, choſen on each Side for this Purpoſe. For he believed that the Council, and eſpecially that of *Trent*, had declared many Things as Matters of Faith, which did not at all belong to it; particularly as to Juſtification and Grace, as an inherent Quality, and the Efficacy of the Sacraments, *ex opere operato*, and many others. That the Articles which he called Fundamental, were ſuch only as were neceſſary to Salvation, and not ſuch as were controverted between both Parties; and that therefore he who denied them was not a Member cut off from the Church, but a living one, and joined to it in Faith and Charity. From whence he concluded, that notwithſtanding this Difference, there might be a Union and Agreement between the Church of *Rome* and the Proteſtants. All theſe Things he guarded by this Rule, that the holy Scripture, as far as clear and expreſs, was an adequate Rule of Faith, and in Defect of this, ſuch Tradition as was certain, and that therefore no Chriſtian Man ought to believe, with a divine Faith, any Thing not expreſſed in holy Scripture without any Obſcurity, and Difference of Catholick Explications; or not delivered by the Apoſtles or Apoſtolick Men to the Church, without any Ambiguity whatſoever; and that beyond this Rule every Man was free to follow his own Opinion.

When he had anſwered that he had ſaid and believed theſe Things, the Congregation of the Cardinals General Inquiſitors thought proper to conſult the Cenſors of Theological Propoſitions, who, examining the Affair before the Cardinal of *Cremona*, unanimouſly pronounced the Propoſitions heretical. And as there was farther a vehement Suſpicion that his Abjuration was feigned, he was interrogated, whether he would perſiſt in the ſaid Hereſies? He ſaid, No; but that he repented of them, and was ready to deteſt and abjure them, as far as they ſhould be declared Hereſies by the Apoſtolick See. Whilſt his Cauſe was in this State, and during the Time allowed him to make his Defence, and for granting him his Proceſs, as he was conſulting his Advocate, he fell into a very grievous Diſtemper, which ſo encreaſed on him, that the Phyſicians deſpaired of his Life, and the rather, on account of the Seaſon of the Year, and the Greatneſs of his Age, being ſixty-ſix Years old. He abjured however before the Cardinal of *Cremona*, and other Officials of the Inquiſition, the Hereſies he had confeſſed, and all others; and having given Signs of Repentance, and received the Sacraments, and ſent a Meſſenger to the Pope, to give him Thanks, in theſe Words, *That by the Preſſure of his Confinement, he had given him Opportunity ſeriouſly to think of the Salvation of his Soul, and to behold the Light, which he was too blind to diſcern before, and that therefore he was indebted to him, that by the Mercy of God he died with a good Hope*, after theſe Things he departed this Life. His Bowels, in order to prevent any Reflections, were taken out by the moſt excellent Phyſicians of ſeveral Nations, who having carefully inſpected his Inwards, all agreed that he died with a natural Illneſs.

His Corpſe was depoſited till the Iſſue of the Trial, and four of his Relations, who then happened to be at *Rome*, were by Name cited by a publick Edict, and all other Perſons whatſoever who thought themſelves any ways con-

concerned, to defend the Memory of the aforesaid *Mark Anthony*. And when his four aforesaid Relations declared they would not defend it, and no other appeared to do it, the Tribunal of the Inquisition chose some proper Persons for this Purpose, who, upon carefully inspecting the Process, answered, that nothing appeared to them, whereby they could defend the said Memory according to Law, since from *Mark Anthony*'s own Confession, they most clearly found that he died a relapsed Heretick. But that they might proceed to Sentence entirely, according to Law, they consulted with Divines and skilful Lawyers, and had the Matter proposed and carefully examined by them. At length they all agreed that the same Punishments should be executed upon the Memory, Body, and Effects of the Deceased, which would have been executed upon himself had he been alive.

Having taken this Resolution, the twenty-first Day of *December*, *An.* 1624. was appointed for the pronouncing Sentence. Early in the Morning of it, so vast a Multitude had got together to St. *Mary supra Minervam*, where they generally give these religious Shews, that they were forced not only to shut up, but to guard the Gates with armed Men, and the great *Area* before the Church was so prodigiously thronged, that there was scarce Room for the Cardinals themselves to pass. The middle Isle of the Church, from the first to the fourth Pillar was boarded in, with Boards above the Height of a tall Man. At the upper and lower End of it there were Gates, guarded by *Switzers*. On each Side there were Scaffolds, running the whole Length of the Inclosure, in which were Seats for the Cardinals and other Prelates, and other Conveniencies, to receive the Courtiers and other Noblemen standing or sitting. On the right Hand coming in the sacred Council presided, on the left Hand were placed the inferior Officers of the holy Inquisition, the Governor of the City and his Officials. Before the Pulpit was to be seen the Picture of *Mark Anthony*, drawn in Colours, covered with a black common Garment, holding a Clergyman's Cap in his Hand, with his Name, Surname, and Archiepiscopal Dignity, which formerly he had born, inscribed upon it, together with a wooden Chest bedaubed with Pitch, in which the dead Body was inclosed. The rest of the Church was filled with Citizens, and a great many Foreigners, the Number of whom was at that Time larger, because the Jubilee that was at hand had brought them from all Parts to the City, that they might be present at the opening the sacred Gates.

Things being thus disposed, a certain Parson mounted the Pulpit, and with a shrill Voice, which rung thro' all the Parts of the spacious Church, and in the vulgar Language, that the common People might understand him, read over a Summary of the Process, and the Sentence by which the Cardinals Inquisitors General, specially deputed for the Affair by the Pope, pronounced *Mark Anthony*, as a Relapse into Heresy, to have incurred all the Censures and Penalties appointed to relapsed Hereticks by the sacred Canons, and Papal Constitutions, and declared him to be deprived of all Honours, Prerogatives, and Ecclesiastical Dignities, condemned his Memory, and cast him out of the Ecclesiastical Court, delivered over his dead Body and Effigies into the

the Power of the Governor of the City, that he might inflict on it the Punishment due, according to the Rule and Practice of the Church. And finally, they commanded his impious and heretical Writings to be publickly burnt, and declared all his Effects to be forfeited to the Exchequer of the holy Inquisition. After this Sentence was read, the Governor of the City and his Officers threw the Corps, Effigies, and aforesaid Writings into a Cart, and carried them into the *Campo Fiore*, a great Multitude of People following after. When they came there, the dead Body, which as yet in all its Members was whole and entire, was raised out of the Chest as far as the Bottom of the Breast, and shewn from on high to the vast Concourse of People that stood round about, and was afterwards with the Effigies and Bundle of his Books, thrown into the Pile prepared for the Purpose, and there burnt.

I was willing to give this long Story in all its Circumstances, not only because the Person himself was famous, and the Thing fresh in Memory, but chiefly because all Things usually practised in the Process against the Dead, were here exactly observed, whereby the whole Scene of this Iniquity and Cruelty doth most fully appear.

## CHAP. XXXIX.

### *Of the Manner of proceeding against Houses.*

IN order to beget in the common People a greater Abhorrence of the Crime of Heresy, they are used to pull down, and level with the Ground the Houses or Dwellings, in which the Heretick or Arch-Heretick holds Conventicles and Congregations. Of this we have several Instances in the Book of the Sentences of the *Tholouse* Inquisition. This Demolition of Houses, in Detestation of the Crime of Heresy, was formerly appointed by the Council of *Tholouse*, An. 1229. c. 5. *We decree that that House, in which an Heretick shall be found, shall be destroyed, and the Place it self or Ground be confiscated.* And the Council of *Biterre*, c. 35. *Let the Houses also in which living or dead Hereticks, whether convicted or condemned, are or shall be found, if with the Knowledge and Consent of the Owners of such Houses being of legal Age, be pulled down, and the Effects of all who then inhabit there be confiscated, unless they are able manifestly to prove their Innocence or just Ignorance.* And not long after, *Innocent* IV. decreed this very Thing by a certain Writing, beginning, *Ad exstirpanda*, of which the Original is extant, in the Inquisition of *Bologna*, in these Words. *The House also, in which any Heretick, Man or Woman, shall be found, shall be destroyed to the Ground, without any Hope of being ever rebuilt, unless the Owner of the House shall have procured the Discovery of them there. And if the Owner of such House shall have any other House contiguous to it, let all those Houses be likewise demolished.* But *Alexander* IV. by a Constitution beginning, *Falsis recordationis*, declares, *That this*

concerned, to defend the Memory of the aforeſaid *Mark Anthony*. And when his four aforeſaid Relations declared they would not defend it, and no other appeared to do it, the Tribunal of the Inquiſition choſe ſome proper Perſons for this Purpoſe, who, upon carefully inſpecting the Proceſs, anſwered, that nothing appeared to them, whereby they could defend the ſaid Memory according to Law, ſince from *Mark Anthony*'s own Confeſſion, they moſt clearly found that he died a relapſed Heretick. But that they might proceed to Sentence entirely, according to Law, they conſulted with Divines and skilful Lawyers, and had the Matter propoſed and carefully examined by them. At length they all agreed that the ſame Puniſhments ſhould be executed upon the Memory, Body, and Effects of the Deceaſed, which would have been executed upon himſelf had he been alive.

Having taken this Reſolution, the twenty-firſt Day of *December*, *An.* 1624. was appointed for the pronouncing Sentence. Early in the Morning of it, ſo vaſt a Multitude had got together to St. *Mary ſupra Minervam*, where they generally give theſe religious Shews, that they were forced not only to ſhut up, but to guard the Gates with armed Men, and the great *Area* before the Church was ſo prodigiouſly thronged, that there was ſcarce Room for the Cardinals themſelves to paſs. The middle Iſle of the Church, from the firſt to the fourth Pillar was boarded in, with Boards above the Height of a tall Man. At the upper and lower End of it there were Gates, guarded by *Switzers*. On each Side there were Scaffolds, running the whole Length of the Incloſure, in which were Seats for the Cardinals and other Prelates, and other Conveniencies, to receive the Courtiers and other Noblemen ſtanding or ſitting. On the right Hand coming in the ſacred Council preſided, on the left Hand were placed the inferior Officers of the holy Inquiſition, the Governor of the City and his Officials. Before the Pulpit was to be ſeen the Picture of *Mark Anthony*, drawn in Colours, covered with a black common Garment, holding a Clergyman's Cap in his Hand, with his Name, Surname, and Archiepiſcopal Dignity, which formerly he had born, inſcribed upon it, together with a wooden Cheſt bedaubed with Pitch, in which the dead Body was incloſed. The reſt of the Church was filled with Citizens, and a great many Foreigners, the Number of whom was at that Time larger, becauſe the Jubilee that was at hand had brought them from all Parts to the City, that they might be preſent at the opening the ſacred Gates.

Things being thus diſpoſed, a certain Parſon mounted the Pulpit, and with a ſhrill Voice, which rung thro' all the Parts of the ſpacious Church, and in the vulgar Language, that the common People might underſtand him, read over a Summary of the Proceſs, and the Sentence by which the Cardinals Inquiſitors General, ſpecially deputed for the Affair by the Pope, pronounced *Mark Anthony*, as a Relapſe into Hereſy, to have incurred all the Cenſures and Penalties appointed to relapſed Hereticks by the ſacred Canons, and Papal Conſtitutions, and declared him to be deprived of all Honours, Prerogatives, and Eccleſiaſtical Dignities, condemned his Memory, and caſt him out of the Eccleſiaſtical Court, delivered over his dead Body and Effigies into the

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*this muſt be underſtood of the Out-houſes of ſuch Dwelling*, viz. *that ſuch Houſe, with all other Buildings contiguous to it*, i. e. *the Houſe it ſelf, and Out-houſes, whether an Heretick, Man or Woman, ſhall be found in the Houſe it ſelf, or the Out-houſes, ſhall be deſtroyed; becauſe the Houſe, tho' divided into ever ſo many Dwellings, is nevertheleſs accounted to be one Houſe.*

If the Owner of the Houſe is not condemned of Hereſy, but Hereticks have committed ſuch Things in an Houſe that did not belong to them, without the Knowledge of the Owner, the Houſe is to receive no Damage. But if he knew it, or ought to have known it, 'tis confiſcated, and being confiſcated, remains ſubject to the Pleaſure of the Inquiſitor. The Materials of ſuch Houſes go to the Exchequer, or are decreed to be applied to other pious Uſes. The Ground on which ſuch Houſe ſtood muſt not be ſhut in, but muſt always be uninhabited, that as it was formerly a Receptacle of wicked Wretches, it may from henceforth become a Place of Naſtineſs, and made a Dunghill and Stench. Excommunication alſo is threatned againſt all thoſe who ſhall preſume to rebuild it, or to inhabit or incloſe it, or ſhall knowingly give any Advice or Aſſiſtance to it. Sometimes alſo the Ground on which the Houſe ſtood, is ſprinkled over with Salt, to denote its Barrenneſs, at which Time certain Curſes and Imprecations are uttered. And finally, that there may be a perpetual Monument of its Infamy and juſt Puniſhment, a ſolid Stone, or a marble Pillar four or five Foot high, is erected in this laſt Age, in the ſaid Ground, with certain large Characters cut on it, containing the Name of the Owner of the Houſe, ſhewing the Reaſon of its being deſtroyed, and ſignifying the Time, *viz.* under the Reign of what Pope, Emperor or King, the Matter was tranſacted. In the former Age there was a famous Monument erected on this Account in *Spain*, in the noble City of *Valladolid*, where *Auſtin Cazzalla*, altho' converted, and penitent, was, *An.* 1559. delivered as a Dogmatiſt to the ſecular Court, and his Houſe pulled down, on the Ground of which there was a little Pillar erected, containing an Account of the Affair.

*Lib. Sent. fol.* 2.

## CHAP. XL.

### *How the Sentences are pronounced, and the condemned Perſons delivered over to the ſecular Arm.*

*Direct. p.* 3. *com.* 48. THE Inquiſitors are commanded to pronounce the Sentences againſt Hereticks, and to leave the condemned Perſons to the ſecular Powers preſent, to be puniſhed according to their Deſert. C. *Excommunicamus*, 1. in princip. de hæret. C. *Ad Abolendam*, §. *Illos*, de hæret. and C. *Novimus*, de verb. ſignific. Altho' this Command requires the ſecular Judge to be preſent at the pronouncing Sentence, yet the Sentence of Condemnation againſt Hereticks,

reticks, pronounced when the ſecular Judge is abſent, is valid, provided there be all other Things eſſential to it. For the Laws do not ſo require the Preſence of the ſecular Judge or his Officers, as tho' nothing profitable could be tranſacted without him, but only that they, as Servants, ſhould put in Execution the Sentence pronounced; for every other Act is forbidden them in this Crime, which is merely Eccleſiaſtical. Cap. *ut Inquiſitionis*, §. *Prohibemus*, de hæret. l. 6. And if the Preſence of the ſecular Judge was neceſſary in pronouncing Sentence of Condemnation againſt impenitent or relapſed Hereticks, he might eaſily by this Means hinder the Office of the Inquiſition, by denying his Preſence, either for no Reaſon, or for a feigned and pretended one. So that when the Inquiſitor and Biſhop have pronounced Sentence upon the Criminal, it ſhall be valid, tho' the ſecular Magiſtrate cannot or will not be preſent; and it ſhall be ſufficient to intimate to him by ſome legal Perſon in Writing when there is Need, and which is the ſafeſt Method, that ſuch a Perſon is judged to be an obſtinate Heretick, and impenitent or relapſed; and the ſecular Magiſtrate, tho' not preſent at the Sentence, ſhall be obliged to give Credit to ſuch an Intimation, and to put to Death the Heretick delivered over to him, unleſs he will be moſt grievouſly puniſhed as a Favourer of Hereticks, and Hinderer of the holy Office. Nor muſt he have any Copy of the Proceſs.

Alſo in the ſame Chapter *Novimus*, 'tis commanded, that the Church ſhall effectually intercede for him, who is to be delivered over to be puniſhed by the ſecular Court, that the Sentence concerning him may be ſo moderated, as to prevent Danger of Death *. And altho' the Emperor *Frederick* provided by his Law, *Let no one preſume to intercede with us in Behalf of ſuch, which if any doth, he ſhall deſervedly incur our Indignation*; yet the Eccleſiaſtical Judges may intercede in another Court for ſuch a one; and altho' ſuch Interceſſion is forbidden, which tends to favour the Heretick, or to the Hindrance of Juſtice; yet ſuch Interceſſion is not, which tends to the avoiding Irregularity, and which is particularly injoined by the Law it ſelf. However, every Difficulty

Pegna, *com.* 20. *in part.* 2. *Direct.*

* "Is there, ſays Dr. *Geddes*, in his View of the Court of Inquiſition in *Portugal*, *p.* 446. in "all Hiſtory, an Inſtance of ſo groſs and confident a Mockery of God, and the World, as this of "the Inquiſitors beſeeching the civil Magiſtrates, not to put the Hereticks they have condemned "and delivered to them, to Death? For were they in Earneſt when they made this ſolemn Pe"tition to the ſecular Magiſtrates, why do they bring their Priſoners out of the Inquiſition, and "deliver them to thoſe Magiſtrates, in Coats painted over with Flames? Why do they teach "that Hereticks, above all other Malefactors, ought to be puniſhed with Death? And why do "they never reſent the ſecular Magiſtrates having ſo little Regard to their earneſt and joint Pe"tition, as never to fail to burn all the Hereticks that are delivered to them by the Inquiſition, "within an Hour or two after they have them in their Hands? And why in *Rome*, where the "Supream, Civil, and Eccleſiaſtical Authority are lodged in the ſame Perſon, is this Petition of "the Inquiſition, which is made there as well as in other Places, never granted? Thus far Dr. *Geddes*. And let me here add, that this Hypocriſy and Diſſimulation is the more vile and execrable, in that the Inquiſitors are commanded by the Bulls of ſeveral Popes, to compel the ſecular Magiſtrate, under Penalty of Excommunication and other Eccleſiaſtical Cenſures, within ſix Days readily to execute the Sentences pronounced by the Inquiſitors againſt Hereticks, *i. e.* to burn them. *The tender Mercies of theſe Wretches are Cruelty.*

of this kind the cunning Induſtry of the Popes hath wholly taken away, who have provided, how both the Inquiſitors and Counſellors may more ſecurely avoid Irregularity. For *Paul* IV. conſidering, at *Rome*, *April* 29, *An.* 1557. in the Congregations held before him on the Cauſe of Hereſy, that the greateſt Part of thoſe imployed in this Affair, were Clergymen ſecular and regular, being in Orders, in the Prieſthood, and the Epiſcopal, Archiepiſcopal, or other higher Dignity, and even ſome Cardinals, and that it oftentimes happened, that, according to the Nature of the Caſes and Crimes before them, they gave Sentence againſt the Criminals, whereby was occaſioned the Loſs of a Limb, or the Effuſion of Blood, and ſometimes even natural Death; and being therefore willing to conſult their Safety, and the Eaſe of their Mind and Conſcience, determined and decreed, that all the aforeſaid who ſhould aſſiſt him in judging not only in Cauſes of Hereſy, but alſo in every other criminal Cauſe, which ſhould or might be managed before him, might give Sentence againſt Criminals, by which they ſhould be condemned to the Queſtions or Torture, or to any other condign Puniſhment, even to the Loſs of a Member, and to natural Death inclusively, without incurring any Cenſure or Irregularity. *Pius* V. afterwards confirmed the ſame Decree, and extended it to all the Inquiſitors, their Vicars, Commiſſaries, and Counſellors, as *Umbertus Locatus* witneſſes in his Book *de opere Judiciali Inquiſitorum*, towards the End, tit. *de decretis*. So that as theſe Decrees now ſtand in Force, this Proteſtation doth not ſeem neceſſary, that the Inquiſitors hereby may avoid Irregularity, when Criminals for Hereſy are actually delivered over, or left to the ſecular Court. However, they will not ſuffer it to be omitted, becauſe 'tis ſupported by common Law, and the general Cuſtom of the Eccleſiaſtical Court; nor are ſeveral Remedies, which may be had more ſecurely to obtain the ſame End, to be rejected.

*Qu.* 36. *com.* 85. Nor can the ſecular Judges, after Criminals for Hereſy, relapſed or impenitent, are delivered over, or left to them to be put to Death, re-examine the Proceſs and Cauſe, and correct or alter it if needful, or pronounce the Sentence void.

*Catbol. Inſtit. t.* 36. §. 8. However, *Simancas* relates from other Authors certain Inſtances of Perſons, who were unjuſtly condemned by the Inquiſitors for Hereſy, and whoſe Sentences were not executed by the ſecular Judges. He cites *Alciatus*, as aſſerting, "That the Lay Judge is not bound immediately to condemn a Criminal left "to him by the Inquiſitors, if he was not really defiled with the Crime of "Hereſy, altho' the Eccleſiaſtical Judge might have pronounced it ſo.; and "thus he adds, it was ſaid, that the Lay Judge was not bound to execute the "Sentence of the Inquiſitor, by which he pronounced a certain Woman an "Heretick, who in Reality had only made ſome Love-Potions, and againſt "whom there were beſides Proofs of certain Witchcraft. *John Igneus* alſo "relates, that the ſame twice happened at *Milan*, where two Women, con"demned for Hereſy by the Biſhop of *Parma* and the Inquiſitor, eſcaped "unpuniſhed, it being found that they ever thought right concerning the "Faith. He alſo adds, that a certain Woman at *Rouen* being condemned to

"the

" the Flames for Hereſy, was abſolved by the ſecular Judges, and thoſe who " had condemned her, condemned to pay Coſts." But *Simancas* believes theſe Things and others of the ſame kind, were either feigned out of Hatred to the holy Inquiſition, or elſe raſhly and unjuſtly done by wicked and unskilful Judges, and thinks that the ſecular Judge is bound in a Cauſe of Hereſy immediately, and, as they ſay, with his Eyes ſhut, to execute the Sentence of the Eccleſiaſtical Judge, without any Cogniſance or Aſſurance of the Juſtice of it. And this is now moſt exactly obſerved in *Spain* and *Portugal*. In the Accounts of the *Spaniſh* Court, lately publiſhed by a noble *French* Lady, who attended the Queen out of *France*, there is an Inſtance of a *Jewiſh* Girl, ſcarce entred into her ſeventeenth Year, extreamly beautiful, who, in a publick Act of Faith at *Madrid*, *An.* 1680. *June* 30. together with twenty others of her Nation, of both Sexes, being condemned to the Stake, turned her ſelf to the Queen, and prayed, that out of her Goodneſs and Clemency ſhe might be delivered from the moſt dreadful Puniſhment of the Fire, in theſe Words: *Great Queen, is not your Preſence able to bring me ſome Comfort under my Miſery? Conſider my Youth, and that I am condemned for a Religion which I have ſucked in with my Mother's Milk.* The Queen turned away her Eyes, and declared ſhe pitied the miſerable Creature, but did not dare to intercede for her with a ſingle Word. §. 4, 5. par. 2. pag. 54.

Nor muſt the Inquiſitor ſhew to the Lay Judge the Proceſs made by him; but the ſecular Magiſtrate muſt immediately, and without Delay, put in Execution the Sentence of the Eccleſiaſtical Judge. If he omits to do it, or defers the Execution beyond the uſual Time, without a legal Cauſe, the Inquiſitor may compel him to execute it by Eccleſiaſtical Cenſure. *Alexander* IV. hath, in the fulleſt Manner, given this Power to the Inquiſitors by a Reſcript, beginning, *Ad audientiam.*

But in this Affair the Cuſtom of Provinces is different. In *Spain*, as ſoon as ever the Sentence of the Relapſed or Impenitent, or any others who are to be delivered over to the ſecular Court, is read, the ſecular Judges receive them immediately into their Court, and having pronounced the Sentence of Death or Burning, carry them directly to the Place of Execution. In many Cities of *Italy* the ſecular Judges keep in their Jayls the Criminals left or delivered over to them by the Inquiſitors three or four Days before they put them to Death; which ſeems to be done by Authority of *Innocent* IV. in a Bull beginning, *Ad exſtirpanda*, where we thus read. *As to thoſe who are condemned for Hereſy, by the Dioceſan or his Vicar, or by the aforeſaid Inquiſitors, let the chief Magiſtrate or Ruler, or his ſpecial Meſſenger, receive them when they are left to him, and immediately, or within five Days at leaſt, put in Execution the Conſtitutions made againſt ſuch Perſons.* And they may be compelled to this by the Puniſhment of Excommunication, and other Eccleſiaſtical Cenſures, by a Reſcript of *Innocent* VIII. beginning, *Dilectus Filius*, in theſe Words. *Injoin and command the ſaid ſecular Officials, under the Penalty of Excommunication, and other Eccleſiaſtical Cenſures, that within ſix Days, after they ſhall be legally required, they readily execute the Sentences pronounced by you againſt ſuch Heretiks, without*

*seeing the said Processes carried on by you, and without allowing any Appeal.* If the Inquisitor finds the secular Judge to be so negligent, as not to take Care to put to Death the Hereticks delivered to him after these five or six Days are elapsed, tho' there be nothing legally to hinder him, then the Inquisitor may command him to execute the Punishment of Burning, or of Death, upon the Hereticks left to him, since this is the Punishment usually inflicted on such; nor will the Inquisitor hereby fall into Irregularity. But others think it a safer Method, that the Inquisitor should not in this Case mention by Name the Punishment of Burning, or Death, commanding the secular Judge to inflict it, because possibly he might become irregular; to avoid which, he makes the usual Protestation, when he consigns over Hereticks to the secular Judge; and therefore they think it safer, that he should in general command him, under Penalty of Excommunication, or other Censures, to put in Execution the Sentences pronounced by him. This manner of speaking is contained in a Rescript of *Alexander* IV. beginning, *Ad Audientiam*; and of *Leo* X. beginning, *Honestis petentium votis*: Or that he should observe the Constitutions and Laws published against Hereticks, which Manner is not obscurely injoined by *Innocent* IV. in Extrav. *Ad exstirpanda*, §. *Damnati vero*. And these Methods they say are sufficient to avoid Irregularity.

How they proceed in the Dutchy of *Milan* in the Execution of the Sentence
p. 2. s. 2. §. 6. n. 44. against Hereticks, *Carena* teaches us in these Words. "And that we may "see how our Senate at *Milan* proceeds in executing the Sentences pronounced "by the Inquisitors against Hereticks, and how great the Zeal of the said "Tribunal is in Things concerning the Catholick Religion, I here subjoin "the following Rescript of the said Senate in this Affair. *Our Beloved: We* "*have seen what you have written to us concerning* Don Baptista Gaudentius, "*alias Friar* Seraphin *of* Ferrara, *who, as you have written to us, is guilty of* "*heretical Pravity. Wherefore when he is delivered to you, immediately put his* "*Condemnation in Execution.* Milan, Aug. 6. 1573. Directed to *The Wise* "J. C. *Judge of the Malefactors at* Cremona. And in Execution of this De"cree the said Criminal was, on the 12th Day of the said Month, burnt "alive in the publick Place of Justice, as a relapsed and impenitent He"retick.

## CHAP. XLI.

### *Of an* ACT *of* FAITH.

THE last Act of the Inquisition now remains, in which may be seen the Accomplishment of all the several Matters we have been explaining, and relating. 'Tis commonly called an Act of Faith. And 'tis worth while more particularly to describe this Solemnity, because 'tis celebrated with the greatest Pomp.

When

When the Inquiſitor is determined to pronounce the Sentences of certain Criminals, he fixes on ſome Lord's-day or Feſtival to perform this Solemnity. But they take Care that it be not *Advent Sunday*, or in *Lent*, or a very ſolemn Day, ſuch as the *Nativity of our Lord*, *Eaſter*, and the like; becauſe 'tis not decent that the Sermons on thoſe Days ſhould be ſuſpended, but that every one ſhould go to his own Pariſh Church. A certain *Sunday* or Feſtival therefore being appointed, the Parſons of all the Churches of that City or Place, in which this Solemnity is to be performed, do, by Command of the Biſhop and Inquiſitor, when they have done preaching, publickly intimate to the Clergy and People, that the Inquiſitor will, in ſuch a Church, hold a general Sermon concerning the Faith; and they promiſe, in the Name of the Pope, the uſual Indulgence of 40 Days, to all who will come and ſee and hear the Things which are there to be tranſacted. They take Care to give the ſame Notice in the Houſes of thoſe Religious, who commonly preach the Word of God, and that their Superiors ſhould be told, that becauſe the Inquiſitor will in ſuch a Church make a general Sermon concerning the Faith, therefore he ſuſpends all other Sermons, that every Superior may ſend four or two Friars, as he thinks fit, to be preſent at the Sermon, and the pronouncing the Sentences. This Solemnity was formerly called, *A general Sermon concerning the Faith*, but 'tis now called, *An Act of Faith*. And in this, great Numbers of Perſons, ſometimes one or two hundred are brought forth in publick Proceſſion to various Kinds of Penances and Puniſhments, all wearing the moſt horrible Habits. They chuſe Feſtivals for this Solemnity, becauſe then there is a greater Confluence of People gathered together to ſee the Torments and Puniſhments of the Criminals, that from hence they may learn to fear, and be kept from the Commiſſion of Evil. Concerning this Rite, the *Madrid* Inſtruction, *An.* 1561. *c.* 77. thus preſcribes. *When the Proceſſes of the Criminals are concluded, and the Sentences fixed, the Inquiſitors ſhall aſſign ſome Holyday, on which there ſhall be a publick Act of the Faith: Which Day they ſhall ſignify to the Chapters of the Church and Conſiſtory of the City; and where there is any Royal Council, it ſhall be notified alſo to the Preſident and Members, who muſt be all invited to attend the Act of Faith, according to the Cuſtom of every Place. And let the Inquiſitors take Care that theſe Things be done in ſuch convenient Time, as that the Execution of the Sentences of thoſe who are to be delivered over to the ſecular Court may be done by Day, to prevent Inconveniences.* And indeed, as this Act of Faith is now celebrated in *Spain* and *Portugal*, the Solemnity is truly an horrible and tremendous Spectacle, in which every Thing is deſignedly made uſe of that may ſtrike Terror, for this Reaſon, as they ſay, that they may hereby give ſome Repreſentation and Image of the future Judgment. Param. *l.* 3. *qu.* 4. *n.* 36.

If any one, whether an impenitent or relapſed Heretick, is to be delivered to the ſecular Court, the Biſhop and Inquiſitor give Notice to the Ballive of the Place, or principal Magiſtrate of the ſecular Court, that he muſt come ſuch a Day and Hour with his Attendance to ſuch a Street or Place, to receive

ceive a certain Heretick or relapſed Perſon out of their Court, whom they will deliver to him; and that he muſt give publick Notice the ſame Day, or the Day before in the Morning, by the Crier, throughout the City, in all the uſual Places and Streets, that on ſuch a Day and Hour, and in ſuch a Place, the Inquiſitor will make a Sermon for the Faith, and that the Biſhop and Inquiſitor will condemn a certain Heretick or Relapſe, by delivering him to the ſecular Court.

In moſt of the Tribunals of the Inquiſition, eſpecially in *Spain*, 'tis a remarkable Cuſtom they uſe, *viz.* on the Day before the Acts of Faith, ſolemnly to carry a Buſh to the Place of the Fire, with the Flames of which they are conſumed, who deſerve the Puniſhment of being burnt. This is not without its Myſteries; for the Burning and not conſuming Buſh, ſignifies the indefectible Splendor of the Church, which burns, and is not conſumed; and beſides this, it ſignifies Mercy towards the Penitent, and Severity towards the Froward and Obſtinate. And farther, it repreſents how the Inquiſitors defend the Vineyard of the Church, wounding with the Thorns of the Buſh, and burning up with Flames all who endeavour to bring Hereſies into the Harveſt of the Lord's Field. And finally, it points out the Obſtinacy and Frowardneſs of Hereticks, which muſt rather be broken and bent, like a rugged and ſtubborn Buſh, and that as the Thorns and Prickles of the Buſh tear the Garments of thoſe who paſs by, ſo alſo do the Hereticks rend the ſeamleſs Coat of Chriſt.

*Param. l.* 2. *t.* 3. *c.* 10. *nr.* 70, &c.

Beſides, the Day before the Criminals are brought out of Jayl, to the publick Act of Faith, they part with their Hair and their Beard, by which the Inquiſitors repreſent, that Hereticks return to that Condition in which they were born, *viz.* becoming the Children of Wrath.

*Ibid. c.* 11. *nr.* 63.

All Things being thus prepared to celebrate this Act of Faith, all the Priſoners, on that very Day which is appointed for the Celebration of it, are cloathed with that Habit which they muſt wear in the publick Proceſſion. But the Cuſtom in this Matter is not altogether the ſame in all the Inquiſitions. In that of *Goa*, the Jayl-Keepers, about Midnight, go into the Cells of the Priſoners, bring in a burning Lamp to each of them, and a black Garment ſtriped with white Lines; and alſo a Pair of Breeches, which reach down to their Ankles, both which they order them to put on. The black Habit is given them in Token of Grief and Repentance. About two a Clock the Keepers return, and carry the Priſoners into a long Gallery, where they are all placed in a certain Order againſt the Wall, no one of them being permitted to ſpeak a Word, or mutter, or move; ſo that they ſtand immovable, like Statues, nor is there the leaſt Motion of any one of their Members to be ſeen, except of their Eyes. All theſe are ſuch as have confeſſed their Fault, and have declared themſelves willing to return by Penance to the Boſom of the Church of *Rome*. To every one of theſe is given a Habit to put over their black Garment. Penitent Hereticks, or ſuch as are vehemently ſuſpected, received the bleſſed Sackcloth, commonly called the *Sambenito*, which, as we have before related, is of a Saffron Colour, and on which there is put the

*Hiſt. Inq. Goan. c.* 26.

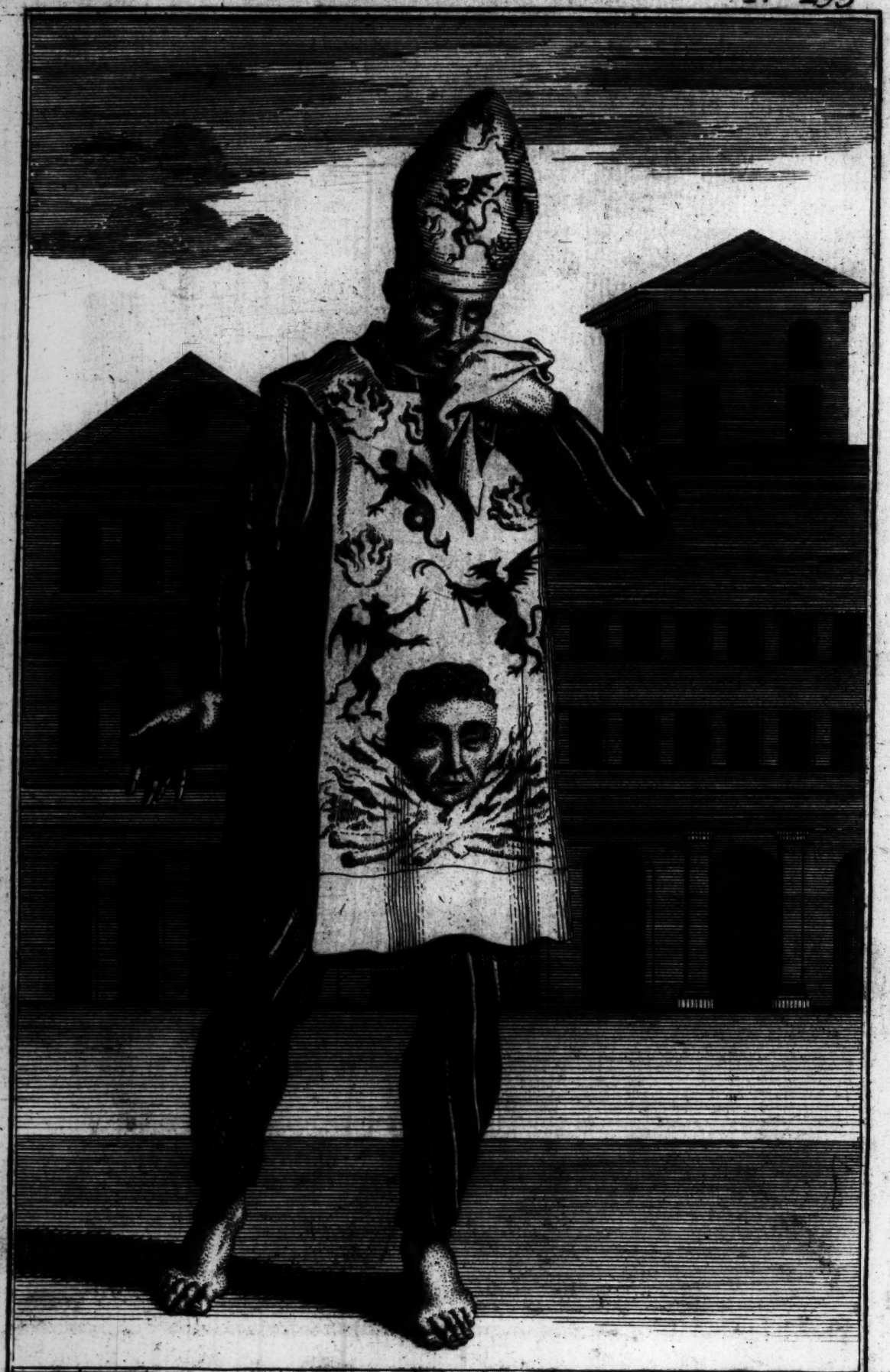


*The Habit of a Penitent, called* **Sambenito.**





*The Habit of a Penitent after Sentence Pronounced, called* **Fuego revolto.**



*The Habit of a Relapse or Impenitent, to be burned, called y^e* **Samarra**.

Croſs of St. *Andrew*, of a Red Colour on the Back and on the Breaſt. Vile and abject Perſons are made to wear the infamous Mitre for more outragious Blaſphemies, which carries in it a Repreſentation of Infamy, denoting that they are as it were Bankrupts of heavenly Riches. The ſame Mitre alſo is put on Polygamiſts, who are hereby ſhewn to have join'd themſelves to two Churches; and finally, ſuch as are convicted of Magick, but what is ſignified hereby as to them, I have not been able to diſcover. The others, whoſe Offences are ſlighter, have no other Garment beſides the black one. Every one hath given him an extinguiſhed Taper, and a Rope put about their Neck, which Rope and extinguiſhed Taper have their Signification, as we ſhall afterwards ſhew. The Women are placed in a ſeparate Gallery from the Men, and are there cloathed with the black Habit, and kept till they are brought forth in publick Proceſſion. Param. *l.* 2. *t.* 3. *c.* 11. *n.* 70, 71.

As to thoſe who are deſigned for the Fire, *viz.* ſuch as have confeſſed their Hereſy, and are impenitent, and Negatives, *viz.* ſuch who are convicted by a ſufficient Number of Witneſſes, and yet deny their Crime, and finally ſuch as are relapſed, they are all carried into a Room ſeparate from the others. Their Dreſs is different from that of the others. They are however cloathed with the Sackcloth, or kind of Mantle, which ſome call the *Sambenito*, others the *Samarra* or *Samaretta*. And tho' it be of the ſame Make as the *Sambenito* is, yet it hath different Marks, is of a black Colour, hath Flames painted on it, and ſometimes the condemned Heretick himſelf, painted to the Life, in the Midſt of the Flames. Sometimes alſo they paint on it Devils thruſting the poor Heretick into Hell. Other Things may alſo be put on it, and all this is done, that Perſons may be deterred from Hereſy by this horrible Spectacle. *l.* 1. *t.* 2. *c.* 5. *n.* 8.

As to thoſe who, after Sentence pronounced, do at length confeſs their Crime, and convert themſelves, before they go out of Jayl, and are not Relapſes, they are cloathed with the *Samarra*, on which the Fire is painted, ſending the Flames downward, which the *Portugueſe* call *Fogo revolto*; as tho' you ſhould ſay, the Fire inverted. Beſides this, they have Paper Mitres put on them made in the Shape of a Cone, on which alſo Devils and Flames are painted, which the *Spaniards* and *Portugueſe* call in their Language *Carocha*. All of them being thus cloathed, according to the Nature of their Crime, are allowed to ſit down on the Ground, waiting for freſh Orders. Thoſe of them who are to be burnt, are carried into a neighbouring Apartment, where they have Confeſſors always with them, to prepare them for Death, and convert them to the Faith of the Church of *Rome*. *Hiſt. Goan. Inq. c.* 26.

This is now the Cuſtom of cloathing all the Priſoners in *Spain*, before they are brought forth in ſolemn Proceſſion to publick View. I cannot readily ſay whether this was the Cuſtom formerly. It ſeems rather to appear by *Eymerick*'s Directory of the Inquiſitors, that the Criminals, in the very Act of Faith, were at length cloathed with the infamous Garment they were condemned to wear, after the Sermon concerning the Faith, and the pronouncing the Sentence. For in his third Part, where he treats of the Abjuration to be made *n.* 189.

made by one found in Hereſy, or who hath confeſſed it, he thus adviſes. *He* (the Inquiſitor) *alſo ſhall give Orders for making the Garment after the Shape of a Monk's Mantle*; and afterwards he uſes theſe Words in the Sentence, *Imprimis*, *you ſhall be afterwards cloathed with the livid Garment, made after the Manner of the Soldier's Banner, or the Monk's Mantle without the Hood.* And again, *After theſe Things, the Sentence ſhall be put in due Execution, and the aforeſaid Garment be immediately put on.* From which Paſſages 'tis plain enough, that the Criminals did not come out of Jayl to the Sermon concerning the Faith, cloathed with this infamous Garment, but were diſmiſſed from Church with this Habit, after the Sermon concerning the Faith was done, and the Sentence pronounced. But this by the way only.

n. 194.

n. 195.

*Hiſt. Inq. Goan. c. 26.* About Four a Clock the Officers give Bread and Figs to all of them, that they may ſomewhat ſatisfy their Hunger during the Celebration of the Act of Faith. About Sun-riſing, the great Bell of the Cathedral Church tolls, by which, as the uſual Signal of an Act of Faith, all Perſons are gathered together to this miſerable Spectacle. The more reputable and principal Men of the City meet at the Houſe of the Inquiſition, and are as it were the Sureties of the Criminals, one of them walking by the Side of each Criminal in the Proceſſion, which they think is no ſmall Honour to them. Matters being thus prepared, the Inquiſitor places himſelf near the Gate of the Houſe of the Inquiſition, attended by the Notary of the holy Office. Here he reads over in Order the Names of all the Criminals, beginning with thoſe whoſe Offences are leaſt, and ending with thoſe whoſe Crimes are greateſt. The Criminals march out each in their Order, with naked Feet, and wearing the Habit that was put on them in Jayl. As every one goes out, the Notary reads the Name of his Surety, who walks by his Side in the Proceſſion. The *Dominican* Monks march firſt, who have this Honour granted them, becauſe *Dominick*, the Founder of their Order, was alſo the Inventor of the Inquiſition. The Banner of the holy Office is carried before them, in which the Image of *Dominick* is curiouſly wrought in Needle-work, holding a Sword in one Hand, and in the other a Branch of Olive, with theſe Words, *Juſtice and Mercy*. Then follow the Criminals with their Sureties. When all thoſe whoſe Crimes are too ſlight to be puniſhed with Death, are gone out into Proceſſion, then comes the Crucifix, after which follow thoſe who are led out to the Puniſhment of Death. The Crucifix being in the Midſt of theſe, hath its Face turned to thoſe who walk before, to denote the Mercy of the holy Office to thoſe who are ſaved from the Death they had deſerved, and the back Part of it to thoſe who come after, to denote that they have no Grace or Mercy to expect. For all Things in this Office are myſterious. Finally, they carry out the Statues of thoſe who have died in Hereſy, habited in the *Samarra*, and alſo the Bones dug out of the Graves, ſhut up in black Cheſts, upon which Devils and Flames are painted all over, that they may be burnt to Aſhes.

When




*The Standard of the Inquisition in* **Spain.**




*The Standard of the Inquisition at* **Goa.**

* When they have thus marched round the principal Streets of the City, that all may behold them, they at length enter the Church, where the Sermon concerning the Faith is to be preached. At *Goa* this is uſually the Church of the *Dominicans*, and ſometimes that of the *Franciſcans*. The great Altar is covered over with Cloth, upon which are placed ſix ſilver Candleſticks, with burning Tapers. On each Side of it is erected ſomething like a Throne; that on the right Hand for the Inquiſitor and his Counſellors; that on the left for the Viceroy and his Officers. Over-againſt the great Altar there is another leſſer one, on which ſeveral Miſſals are placed, and from thence even to the Gate of the Church is made a long Gallery, three Foot wide, full of Seats, in which the Criminals are placed, with their Sureties,

* Dr. *Geddes* gives us the following Account of this Proceſſion in *Portugal*, *p.* 442. "In the "Morning of the Day the Priſoners are all brought into a great Hall, where they have the "Habits put on they are to wear in the Proceſſion, which begins to come out of the Inquiſition "about 9 a Clock in the Morning.

"The firſt in the Proceſſion are the *Dominicans*, who carry the Standard of the Inquiſition, "which on the one Side hath their Founder, *Dominick*'s Picture, and on the other Side the "Croſs, betwixt an Olive-tree and a Sword, with this Motto, *Juſtitia & Miſerecordia*. Next "after the *Dominicans* come the Penitents, ſome with *Benitoes*, and ſome without, according to "the Nature of their Crimes. They are all in black Coats without Sleeves, and bare-footed, "with a Wax-Candle in their Hands. Next come the Penitents, who have narrowly eſcaped "being burnt, who over their black Coat have Flames painted, with their Points turned down-"wards, to ſignify their having been ſaved, but ſo as by Fire. Next come the Negative "and Relapſed, that are to be burnt, with Flames upon their Habit, pointing upward; and "next come thoſe who profeſs Doctrines contrary to the Faith of the *Roman* Church, and who, "beſides Flames on their Habit pointing upward, have their Picture, which is drawn two or "three Days before upon their Breaſts, with Dogs, Serpents, and Devils, all with open Mouths "painted about it.

"*Pegna*, a famous *Spaniſh* Inquiſitor, calls this Proceſſion, *Horrendum ac tremendum Spectacu-"lum*, and ſo it is in Truth, there being ſomething in the Looks of all the Priſoners, beſides "thoſe that are to be burnt, that is ghaſtly and diſconſolate, beyond what can be imagined; and "in the Eyes and Countenances of thoſe that are to be burnt, there is ſomething that looks "fierce and eager.

"The Priſoners that are to be burnt alive, beſides a Familiar, which all the reſt have, have a "Jeſuit on each Hand of them, who are continually preaching to them to abjure their Hereſies; "but if they offer to ſpeak any Thing, in Defence of the Doctrines they are going to ſuffer "Death for profeſſing, they are immediately gagged, and not ſuffered to ſpeak a Word "more.

"This I ſaw done to a Priſoner, preſently after he came out of the Gates of the Inquiſition, "upon his having looked up to the Sun, which he had not ſeen before in ſeveral Years, and "cried out in a Rapture, *How is it poſſible for People that behold that glorious Body, to worſhip any "Being but him that created it?* After the Priſoners comes a Troop of Familiars on Horſeback, "and after them the Inquiſitors and other Officers of the Court upon Mules; and laſt of all comes "the Inquiſitor General upon a white Horſe, led by two Men, with a black Hat, and a green "Hatband, and attended by all the Nobles, that are not employed as Familiars in the "Proceſſion.

"In the *Terreiro de Paco*, which may be as far from the Inquiſition, as *White Hall* is from "*Temple Bar*, there is a Scaffold erected, which may hold two or three thouſand People; at the "one End ſit the Inquiſitors, and at the other End the Priſoners, and in the ſame Order as "they walked in the Proceſſion, thoſe that are to be burnt being ſeated on the higheſt Benches "behind the reſt, which may be ten Foot above the Floor of the Scaffold.

in the Order in which they enter the Church; ſo that thoſe who enter firſt, and have offended leaſt, are neareſt the Altar.

After this comes in the Inquiſitor, furrounded with his Colleagues, and places himſelf on the right Hand Throne, and then the Viceroy, with his Attendants, ſeats himſelf on the Throne on the left Hand. The Crucifix is put on the Altar in the Midſt of the ſix Candleſticks. Then the Sermon is preached concerning the Faith and the Office of the Inquiſition. This Honour is generally given to the *Dominicans*. The Author of the Hiſtory of the Inquiſition at *Goa* tells us, that in the Act of Faith, in which he walked in Proceſſion, cloathed with the *Sambenito*, the Provincial of the *Auguſtines* preached the Sermon, which laſted half an Hour, and treated of the Inquiſition, which he compared to *Noah*'s Ark; but ſaid it was preferable to *Noah*'s Ark in this, becauſe that the Animals which entered it came out of it after the Flood, with the ſame brutal Nature they carried in; whereas the Inquiſition ſo far changes the Perſons who are detained in it, that tho' they enter cruel as Wolves, and fierce as Lions, they come out of it meek as Lambs.

When the Sermon is ended, two Readers, one after another, mount the ſame Pulpit, and with a loud Voice publickly read over the Sentences of all the Criminals, and the Puniſhment to which they are condemned. He whoſe Sentence is read over is brought by an Officer into the Middle of the Gallery, holding an extinguiſhed Taper in his Hand, and there ſtands till his Sentence is read thro'; and becauſe all the Criminals are ſuppoſed to have incurred the greater Excommunication, when any one's Sentence is read over, he is brought to the Foot of the Altar, where, upon his Knees and his Hands placed on the Miſſale, he waits till ſo many are brought there, as there are Miſſals upon the Altar. Then the Reader for ſome time defers the reading of the Sentences; and after he hath admoniſhed thoſe who are kneeling at the Altar, that they ſhould recite with him with their Heart and Mouth the Confeſſion of Faith he is to read over to them, he reads it with a loud Voice; and when it is ended they all take their former Places. Then the Reader reads over the Sentences of the reſt, and the ſame Order is obſerved till all the Sentences are gone thro'.

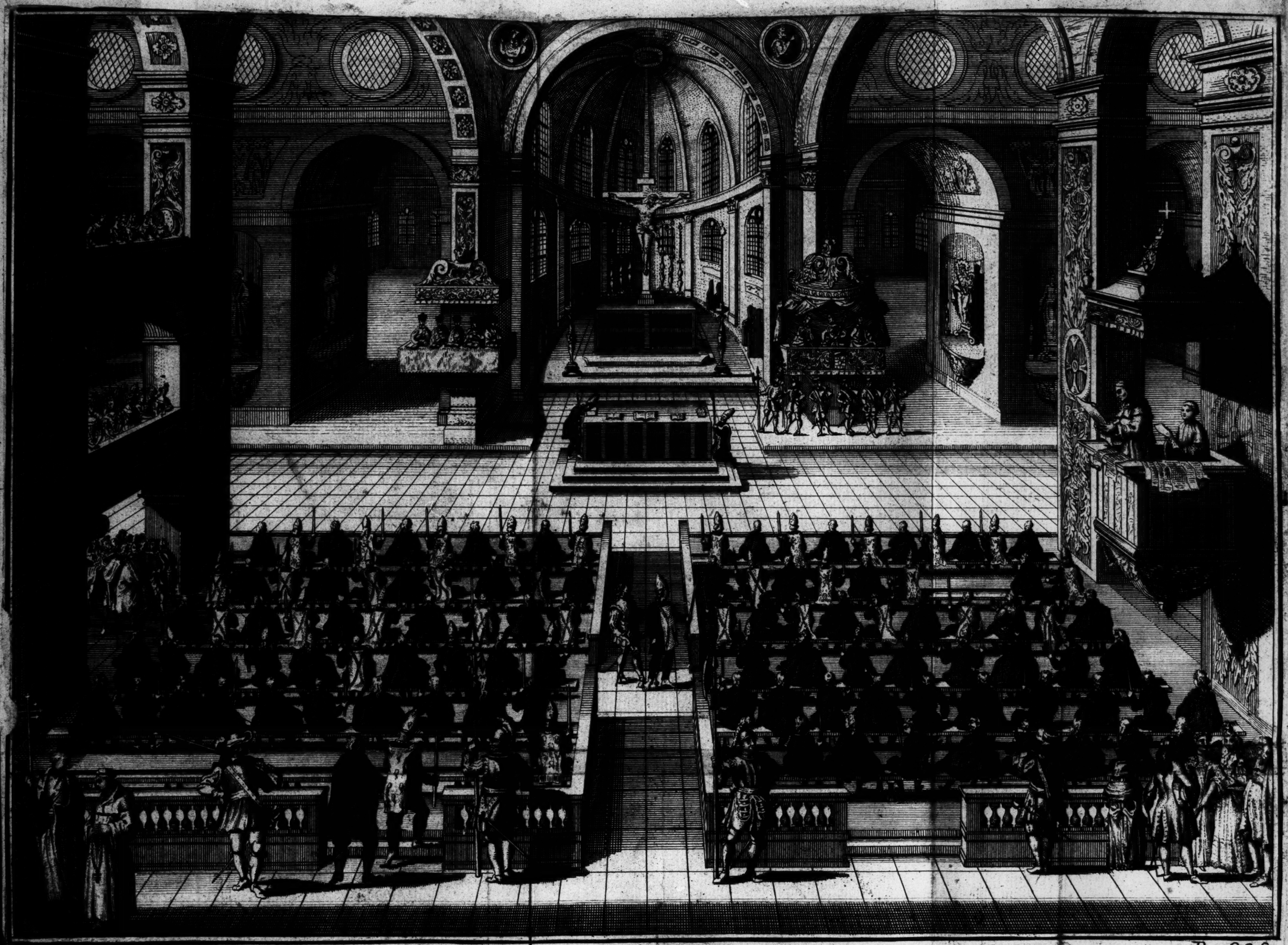
When the Sentences of all thoſe, who are freed from the Puniſhment of Death by the Mercy of the Office, are read thro', the Inquiſitor riſes from his Throne, puts on his ſacred Veſtments, and being attended with about twenty Prieſts, comes down into the Middle of the Church, and there ſaying over ſome ſolemn Prayers, which may be ſeen * in the Book of the Sentences of the *Tholouſe* Inquiſition, he abſolves them all from the Excommunication

*fol.* 149.

* Verſe. *Lord, ſave thy Men Servants, and thine Handmaids.* Verſe. *The Lord be with you.*
Reſp. *Thoſe, O my God, who truſt in thee.* Reſp. *And with thy Spirit.*

Let us pray.

*GRant, we beſeech thee, O Lord, to theſe thy Men Servants, and thine Handmaids, the worthy Fruit of Penance, that they may be rendred innocent in the Sight of thy holy Church, from the Integrity of which they have ſtrayed thro' Sin, by obtaining the Pardon of their Sins, thro' Chriſt our Lord.* Amen.



*The celebration of an* Act of Faith *at* Goa.

they were under, giving each of them a Blow by the Hands of thoſe Prieſts who attend him.

Farther, when the Inquiſitors abſolve and reconcile Penitents at an Act of Faith, they make uſe of Rods, to admoniſh them, that by Hereſy they have fallen from the Favour of God into his Anger and Fury. Hence *Paramus* adviſes ſuch Penitents to conſider, with how great Indulgence they are treated, becauſe they are only whipped on their Shoulders, that they may go away, and being mindful of the divine Fury, may take heed not to relapſe for the future. The Rod alſo points out the judiciary Power which the Inquiſitors exerciſe over impious Hereticks, and thoſe who are ſuſpected of Hereſy, becauſe a Rod is the Meaſure by which any one's Deſerts are meaſured, and therefore Penitents are whipped with Rods according to the Nature of their Offence, whereby their Faults are weighed and meaſured. Farther, the Inquiſitors uſe Rods, becauſe, as a Rod at the Beginning is in its Nature flexible, tender and ſoft, but at laſt hard, blunt and ſtiff, ſo the Inquiſitors are ſoft and tender, whilſt Penitents, offending thro' Frailty and Ignorance, reconcile themſelves; but if Hereticks do afterwards ſuffer themſelves to be overcome by Wickedneſs, and fall again into the Crimes they have committed, then they whip them, and ſtrike them ſeverely, even to the burning of the Fire. And finally they uſe Rods to eſtabliſh and ſupport the Weak in the Faith, becauſe Rods are a very apt Inſtrument to ſupport and confirm the Lame and Weak. Paramus, *l.* 2. *t.* 3. *c.* 11.

The Penitents carry in their Hands extinguiſhed Wax Tapers, whilſt the Inquiſitors reconcile them, to intimate, that the Light of the Faith hath been altogether extinguiſhed in their Minds by the Sin of Hereſy and Infidelity. Theſe Tapers are made of Wax, whereby Hereticks profeſs (*Riſum teneatis*) that their Hearts have been ſo melted, thro' the Heat of Concupiſcence, as to receive various Sects; and that as Wax grows hard by Moiſture, but melts by Dryneſs and Warmth, ſo they being hardned by the Moiſture of carnal Delights, have remained in Infidelity, but are melted as Wax, and converted by the Dryneſs and Heat of Tribulation and Penance injoined them. And finally, the Cotton of the Taper, and the Wax of which 'tis made, and the Fire with which 'tis lighted after Abſolution, ſhadow forth, that the Hereticks have denied Faith, Hope and Charity. But when the Tapers are lighted after their Reconciliation, this ſignifies, that they profeſs they will demonſtrate by the Light of good Works the Faith which they have recovered. *Ibid. n.* 25.

Farther, thoſe who are reconciled are ſprinkled with holy Water and Hyſſop, in Token, that being brought out of the Power of Darkneſs, and having turned the Eyes of their Minds to the true Light of the Faith, they are to remain free from all the Snares and Calumnies of the Devil, that they may ſerve God with greater Freedom. *c.* 11. *n.* 61.

Farther, he who hath offended againſt the Catholick Faith which he had profeſſed, hath a Rope tied round his Neck, to ſignify, that the inward Parts of ſuch a Perſon being poſſeſſed by the Craftineſs of the Devil, have *c.* 11. *n.* 73.

been given to ſuch Sins, of which his outward Parts being tied with Ropes, give a very evident Sign and Proof. And tho' they are reconciled after Abjuration of their Hereſy, yet they walk with a Rope tied about their Necks, that they may come out as Witneſſes againſt themſelves, and may be Examples to others, that they may turn their Eyes to the inward Spots of the Mind.

During this Action, every one of the Priſoners eats the Bread and Figs in the Church, which were given them by the Officers of the Inquiſition in Jayl.

When this Ceremony is performed, the Inquiſitor goes back to his Place, after which the Sentences of thoſe who are appointed to Death are read over, the Concluſion of which is, that the Inquiſition can ſhew them no Favour upon Account of their being relapſed, or impenitent, and that therefore it delivers them over to the Arm of the ſecular Court, which they earneſtly intreat ſo to moderate their Puniſhment, as to prevent the Effuſion of Blood, and Danger of Death. When thoſe laſt Words are read, one of the Officers of the holy Office gives each of them a Blow on the Breaſt, by which he ſignifies that they are left by the Inquiſition; upon which one of the Officers of ſecular Juſtice comes to them and claims them. If any of them are in holy Orders, they are degraded, and deprived of all their Orders, before they are delivered to the ſecular Arm. After this they read the Sentences againſt the Dead. At laſt theſe miſerable Wretches are brought to the ſecular Judge, to hear the Sentence of Death, and when they come before him, they are ſeverally asked, in what Religion they deſire to die. Their Crime is never inquired into; becauſe 'tis not the Office of the ſecular Magiſtrate, to ask, whether thoſe, who are condemned by the Inquiſition, are criminal. He is to pre-ſuppoſe them guilty, and his Duty is to inflict the Puniſhment appointed by Law upon thoſe who commit ſuch Crimes of which they are pronounced guilty by the Inquiſition. When they have anſwered this one ſingle Queſtion, they are ſoon after tied to a Stake, round about which there is placed a Pile of Wood. Thoſe who anſwer that they will die Catholicks, are firſt ſtrangled; but thoſe who ſay they will die *Jews* or Hereticks, are burnt alive*. As theſe are leading out to Puniſhment, the reſt are carried back

* I cannot avoid here giving my Reader a more particular Account of this Execution from Dr. *Geddes*, who himſelf was once preſent at it. His Words are theſe: "The Priſoners are no "ſooner in the Hands of the Civil Magiſtrate, than they are loaded with Chains, before the "Eyes of the Inquiſitors, and being carried firſt to the ſecular Jayl, are, within an Hour or two, "brought from thence, before the Lord Chief Juſtice, who, without knowing any Thing of "their particular Crimes, or of the Evidence that was againſt them, asks them one by one; *In* "*what Religion they do intend to die?* If the Anſwer, That they will die in the Communion of "the Church of *Rome*, they are condemned by him, *To be carried forthwith to the Place of Execu-* "*tion, and there to be firſt ſtrangled, and afterwards burnt to Aſhes.* But if they ſay, *They will die* "*in the Proteſtant*, or in any other Faith that is contrary to the *Roman*, they are then ſentenced "by him, *To be carried forthwith to the Place of Execution, and there to be burnt alive.*

"At

back without any Order, by their Sureties, to the Jayl of the Inquiſition. This is the Celebration of an Act of Faith in *Portugal*, or rather in that Part of *India* which is ſubject to the *Portugueſe*, as a *Frenchman* hath deſcribed it in his Hiſtory of the Inquiſition at *Goa*, who himſelf walked in Proceſſion at an Act of Faith, wearing the infamous *Sambenito*, and who accurately obſerved and deſcribed all the Circumſtances of it.

The Method of celebrating an Act of Faith in *Spain*, is ſomewhat different. For whereas at *Goa*, the Banner which they carry before the Proceſſion hath the Picture of *Dominick* wrought in it, *Paramus* ſays, that in *Spain* the Croſs is the Banner of the Inquiſition, which is carried before them, and tediouſly tells us of ſeveral Myſteries ſignified by the Croſs, of which I will here give a ſhort Summary.

The Croſs is the Beginning and End of all Acts of the Inquiſition, and by it is repreſented that the Tribunal of the Inquiſition is a Repreſentation of that ſupream and final Tribunal, in which the Sign of the Croſs ſhall appear before the Lord Chriſt, coming to the Judgment of the World with great Majeſty and Glory. Farther, it denotes the War which the Inquiſition wages againſt Hereticks, and the Victory which they gain over the Enemies of the Or-

Param. *l.* 2. *t.* 3. *c.* 10.

" At the Place of Execution, which at *Lisbon* is the *Ribera*, there are ſo many Stakes ſet up, " as there are Priſoners to be burnt, with a good Quantity of dry Fuz about them. *The Stakes* " *of the Profeſſed*, as the Inquiſitors call them, may be about four Yards high, and have a ſmall " Board whereon the Priſoner is to be ſeated, within half a Yard of the Top. The Negative " and Relapſed being firſt ſtrangled and burnt, the Profeſſed go up a Ladder, betwixt the two " Jeſuits, which have attended them all Day, and when they are come even with the foremen- " tioned Board, they turn about to the People, and the Jeſuits ſpend near a quarter of an Hour " in exhorting the *Profeſſed* to be reconciled to the Church of *Rome*; which, if they refuſe to " be, the Jeſuits come down, and the Executioner aſcends, and having turned the *Profeſſed* off " the Ladder upon the Seat, and chained their Bodies cloſe to the Stake, he leaves them, " and the Jeſuits go up to them a ſecond time, to renew their Exhortation to them, and at part- " ing tell them, *That they leave them to the Devil, who is ſtanding at their Elbow to receive their* " *Souls, and carry them with him into the Flames of Hell fire, ſo ſoon as they are out of their Bodies.* " Upon this a great Shout is raiſed, and as ſoon as the Jeſuits are off the Ladders, the Cry is, " *Let the Dogs Beards, let the Dogs Beards be made*; which is done by thruſting flaming Furzes, " faſtened to a long Pole, againſt their Faces. And this Inhumanity is commonly continued un- " til their Faces are burnt to a Coal, and is always accompanied with ſuch loud Acclamations of " Joy, as are not to be heard upon any other Occaſion; a Bull Feaſt, or a Farce being dull En- " tertainments, to the uſing a *profeſſed Heretick* thus inhumanly.

" *The Profeſſed Beards having been thus made*, or trimm'd, as they call it in Jollity, Fire is ſet " to the Furz, which are at the Bottom of the Stake, and above which the Profeſſed are chained " ſo high, that the Top of the Flame ſeldom reaches higher than the Seat they ſit on; and if " there happens to be a Wind, to which that Place is much expoſed, it ſeldom reaches ſo high as " their Knees. So that tho', if there be a Calm, the *Profeſſed* are commonly dead in about half an " Hour after the Furz is ſet on Fire, yet if the Weather prove windy, they are not after that " dead in an Hour and a half, or two Hours, and ſo are really roaſted, and not burnt to Death. " But tho', out of Hell, there cannot poſſibly be a more lamentable Spectacle than this, being " joined with the Sufferers (ſo long as they are able to ſpeak) crying out, *Miſerecordia por amor* " *de Dios*; *Mercy for the Love of God*, yet it is beheld by People of both Sexes, and all Ages, with " ſuch Tranſports of Joy and Satisfaction, as are not on any other Occaſion to be met with. " *Geddes Tracts*, Vol. I. p. 447, &c. Thus far Dr. *Geddes*.

When

Orthodox Faith; becauſe the Inquiſitors are appointed the Conquerors of heretical Pravity, and Captains for the Defence of Religion, who keep Watch at the Caſtle of the Inquiſition for the Chriſtian Faith, repair it when going to Ruin, reſtore it when tumbled down, and preſerve it when reſtored in its antient, flouriſhing and vigorous State.

The Inquiſition uſes a green Croſs, that it may be more conveniently diſtinguiſhed from thoſe Croſſes of other Colours, which are uſed by the Chriſtian Commonwealth; and eſpecially that it may be ſhadowed out, that all Things uſually ſignified by Greenneſs, belong to the Inquiſition. For Inſtance, Greenneſs denotes Stability and Eternity; it is a grateful, pleaſant, and attractive Colour to the Eyes, and finally, is a Sign of Victory and Triumph. Hereby is ſhadowed forth, that *the Inquiſitors of heretical Pravity vigilantly preſerve the Stability of the Church, and that Hereticks are attracted by the green Croſs, ſo that they can't eſcape the Judgment of this Tribunal, and by beholding it are brought to the tender Boſom of Mother Church, and drawn to Repentance and the Sincerity of the Faith.*

The Banner of the Inquiſition hath a green Croſs in a Field Sable, adorned on the right Hand with a Branch of green Olive, and brandiſhing on the left a drawn Sword, with this Motto round about the Scutcheon, *Exſurge Domine, & judica cauſam tuam.* Pſal. lxxiii. *Ariſe, O Lord, and judge thy Cauſe.* The Branch of green Olive denotes the ſame as the green Croſs. But the Branch

When Mr. *Wilcox*, now the preſent right Reverend the Lord Biſhop of *Gloceſter*, was Miniſter to the *Engliſh* Factory at *Lisbon*, he ſent the following Letter to the then Biſhop of *Salisbury*, Dr. *Gilbert Burnet*, dated at *Lisbon*, *Jan.* 15, 1706. N. S. which I publiſh by his Lordſhip's Allowance and Approbation, and which abundantly confirms the foregoing Account.

My Lord,

IN *Obedience to your Lordſhip's Commands, of the* 10*th ult. I have here ſent all that was printed concerning the laſt* Auto de Fe. *I ſaw the whole Proceſs, which was agreeable to what is publiſhed by* Limborch *and others upon that Subject. Of the five Perſons condemned, there were but four burnt*; Antonio Tavanes, *by an unuſual Reprieve, being ſaved after the Proceſſion.* Heytor Dias, *and* Maria Pinteyra, *were burnt alive, and the other two firſt ſtrangled. The Execution was very cruel. The Woman was alive in the Flames half an Hour, and the Man above an Hour. The preſent King and his Brothers were ſeated at a Window ſo near, as to be addreſſed to a conſiderable time in very moving Terms by the Man as he was burning. But tho' the Favour he begged was only a few more Faggots, yet he was not able to obtain it. Thoſe which are burnt alive here, are ſeated on a Bench twelve Feet high, faſtned to a Pole, and above ſix Feet higher than the Faggots. The Wind being a little freſh, the Man's hinder Parts were perfectly waſted, and as he turned himſelf, his Ribs opened before he left ſpeaking, the Fire being recruited as it waſted, to keep him juſt in the ſame Degree of Heat. But all his Entreaties could not procure him a larger Allowance of Wood to ſhorten his Miſery and diſpatch him.* Thus far the Letter.

How diabolical a Religion muſt that be, which thus diveſts Men of all the Sentiments of Humanity and Compaſſion, and hardens them againſt all the Miſeries and Sufferings of their Fellow Creatures. For as Dr. *Geddes* obſerves, *Ibid. p.* 450. "That the Reader may not think, that this "inhuman Joy is the Effect of a natural Cruelty, that is in theſe Peoples Diſpoſition, and not of "the Spirit of their Religion, he may reſt aſſured, that all publick Malefactors beſides Hereticks, "have their violent Deaths no where more tenderly lamented, than amongſt the ſame People, "and even when there is nothing in the Manner of their Deaths that appears inhuman or cruel.

of

of Olive is on the right Hand of the Croſs, and the Sword on the left, to ſhew that in the Inquiſition Mercy is mixed with Juſtice; and the Meaning of this Mixture they derive from the Ark of the Tabernacle, in which, together with the Tables, there was the Rod and the Manna, the Rod of Severity, and the Manna of Sweetneſs; as tho' the Rod of *Aaron* which bloſſomed, was the Rod with which Judges command Criminals to be whipped. The Branch of Olive at the right Hand ſignifies, that nothing ought to be ſo ſtrictly regarded by the Inquiſitors as Mercy and Clemency, which the Olive moſt wonderfully ſhadows forth, which hath Branches always green, and which endures Storms much longer than any other Trees, and if buried under Water, is not ſo ſoon deſtroyed, nor doth ſo eaſily loſe its Verdure. The drawn Sword brandiſhing on the left, points out, that the Inquiſitors, after having tried in vain all Methods of Mercy, do then as it were unwillingly come to the Uſe and Drawing of the Sword, which was given by God for the Puniſhment of Offenders. The Field of Sable, in the Midſt of which the green Croſs is placed, intimates the Repentance of the Criminals, and the Sorrow they conceive on Account of their Sins, which however the Green mitigates with the Hope of Pardon. c. 4. n. 18.

The Motto round the Scutcheon, *Exſurge Domine*, &c. marks out, that the Inquiſitors, in Expectation of the Coming of the Lord, do in the mean while puniſh the wicked, that they may deter others, and defend the Good.

But beſides theſe Things, there are other Differences between the Celebration of an Act of Faith in *India* and *Spain*. *Gonſalvius* tells us, this ſolemn Proceſſion began in this Manner at *Seville*. p. 135. " In the firſt Place went ſome " School-Boys, brought out of a certain College in which Boys were taught, " which they commonly call the Houſe of Teaching, who ſtrike an Awe " upon others by their Habit, Singing, and Order, in which they are kept " by certain Clergymen cloathed in Surplices. They walk along ſinging the " Litanies of the Saints, repeating them alternately, the Chorus alternately " anſwering, *Ora pro nobis*. After theſe follow the Priſoners themſelves, " commonly called Penitentials, diſpoſed as it were into ſeveral Claſſes in this " Order. Next after the Children walk thoſe who are convicted of leſſer " Faults. The Tokens of their Guilt are uſually unlighted Candles, Halters about their Necks, wooden Bits, and Paper Mitres. They walk with " their Heads uncovered, that the Mitre may not be concealed, and after " the Manner of Slaves without their Cloak. Thoſe who excel others in " Birth, or Riches, follow after thoſe who are meaner. Next to theſe march " thoſe who are cloathed with the *Sambenito's*, or military Mantles, marked " acroſs with the red Croſs, the ſame Order being obſerved as above, according to the Diſtinction of the Perſons. Thoſe who are defiled in holy Orders, as they are ſuperior in Dignity, ſo alſo are they in their Place or Rank " in the Proceſſion. After theſe comes the third and laſt Claſs, *viz.* of thoſe who " are appointed for the Fire. Every Priſoner is attended by two armed Familiars for his ſafe Cuſtody, one on each Side of him, beſides which, thoſe who " are to die have two Monks or Theatins, as they call them, walking by them.

" The

"The whole Council of the City, consisting of the *Alguazils*, Jurors, the "Judges of twenty-four Degrees, the great Officers of the Court, the Re- "gent and Viceroy himself, or his Deputy, who are followed by a great "Number of Nobility on Horseback, immediately follow the Classes of "the Prisoners, who, according to the Custom of a Triumph, ought certainly "to march first. After these comes the Ecclesiastical Order, the Clergy, be- "nificed Persons, and Curates walking first. Next after them walk the "whole Chapter of the principal Church, which they commonly call the "Cabild of the greater Church. Then the Abbots and Priors of the Monks "Orders, with their Attendants. All these walk before the holy Tribunal "to do Honour to it, because, on that Day, it openly triumphs. Between "these and the next after there is a Space left empty, in which the Fiscal of "the Inquisition, who hath had no small Share in gaining that Victory to the "holy Tribunal, walks as Standard-Bearer in truly military Pomp, display- "ing and opening the Standard made of red Damask Silk. This Standard is "most curiously embroidered, having on one Side of it the Arms of that "Pope who granted the Inquisition, with his Name written at large, and on "the other those of King *Ferdinand*, who first brought it into *Spain*. Every "Thing in it is wrought with Silk, Gold, and Purple. Upon the very Point "of this Banner is fastened a silver Crucifix washed over with Gold of great "Value, to which the superstitious Multitude pay a peculiar Veneration, for "this Reason only, because it belongs to the Inquisition. At length come "the Fathers of the Faith themselves, with a slow Pace, and profound "Gravity, truly triumphing, as becomes the principal Generals of that "Victory. After them come all the Familiars of the holy Inquisition "on Horseback. Then an innumerable Company of the common People "and Mob, without any Order or Character. In this Pomp they march "from the Jayl of the Inquisition to the high and magnificent Scaffold, "which is built of Wood, in the noblest and most capacious Street of the "City, for shewing the Penitents to publick View, and for hearing their Sen- "tences. On this Scaffold they make them sit in the same Order as they "marched. There is also another Scaffold almost as large as the former, over "against it, in which is erected the Tribunal of the Lords Inquisitors, where "they sit in their Inquisitorial, and almost divine Majesty, attended with all "that Grandure in which they came."

*Memor. Aulæ Hisp. p. 2. pag. 63.*

The King, if present, the Queen and the whole Court, and also the Legates, and all the Nobility of *Spain*, generally honour this Solemnity with their Presence. The Seat of the Inquisitor General is like a Tribunal, raised above the Kings. When all are seated in their Places, they begin with celebrating Mass; but when the Priest who officiates, is come to about the Middle of the Service, he leaves the Altar, and goes back to his proper Place. Then the supream Inquisitor comes down from the Scaffold, robed in all his Ornaments, and making his Reverences before the Altar, ascends by several Steps to the King, attended by some of the Officers of the Inquisition, who carry the Crucifix and Gospels, and the Book in which is contained the Oath,



Oath, by which the King obliges himſelf to protect the Catholick Faith, to the Extirpation of Hereſies, and the Defence of the Inquiſition. The King ſtanding bare-headed, having on one Side of him the Conſtable of *Caſtile*, or one of the Grandees of *Spain*, who holds up the Sword of State, ſwears that he will keep the Oath, which is publickly read over to him, by one of the Members of the Royal Council; and remains in the ſame Poſture, till the ſupream Inquiſitor goes back to his Place. After this one of the Secretaries of the Inquiſition goes into a Desk, reads over the like Oath, and takes it from the Council, and the whole Aſſembly. Then all the ſeveral Sentences are read over, and the Solemnity ſometimes laſts till nine a Clock in the Evening.

In *Rome* and throughout all *Italy*, as far as I could gather from any Authors, they do not obſerve ſuch ſolemn Proceſſions in Acts of Faith, or in the Sermons concerning the Faith. But in what Manner the Sentences are there pronounced, and how they are executed, may, in ſome meaſure, be gathered from the two following Accounts.

*Bzovius* tells us, that in the Year 1498. there were diſcovered 230 Moors, §. 32. who had abjured the Chriſtian Faith after their Expulſion from *Spain*. After they had wandered about they came to *Rome*, where they were known, informed againſt, thrown into Jayl, and at length being recovered to the ſame Faith, were thus admitted into the Church by Pope *Alexander*. On *Sunday*, *July* 29. as *J. Bruchard* writes, who ſaw it, an high and large Scaffold was built before the Portico of the great Church of St. *Peter*'s at *Rome*, between that and another Portico, which is above the Steps of the Aſcent to the ſaid Church. Upon this Scaffold were placed the 230 *Moors* to be reconciled. All theſe Perſons being ſat down on the Floor of the Scaffold, in their uſual Habit, and the moſt Reverend Fathers and Lords, the Lord *Peter* Arch-Biſhop of *Regio*, Governor of the City, *John* of *Carthagena*, Ambaſſador of the moſt ſerene the King and Queen of *Spain*, *Octavianus*, Biſhop of *Marano*, Referendary of our holy Lord the Pope, *Dominicus Jacobatius*, and *James Dragatius*, Auditors of the Cauſes of the holy Apoſtolick Palace, Maſter *Paul* of *Moneglia*, in the Country of *Genoua*, a Predicant, Maſter of the ſacred Palace, and Maſter *John* of *Malcone*, of the Order of Minors, Doctors of Divinity, Penitentiaries of our aforeſaid Lord the Pope, in the ſaid Church, for the *Spaniſh* Nation, being ſeated as above in their proper Places, and in their ordinary Habit; a certain Maſter in Divinity, a Predicant, made a Sermon concerning the Faith in the vulgar *Italian*, and againſt the ſaid *Moors*, who were all of the *Spaniſh* Nation, and of whom one was a Profeſſed of the Order of St. *Francis*, whoſe Habit he publickly wore, whom, and all the aforeſaid Perſons, he accuſed of all their Errors, which he knew concerning the Faith, and reproved and inſtructed. After the Sermon was ended, the *Moors* asked Pardon, and deſired Abſolution. Then the Maſter of the holy Palace admoniſhed them in *Latin* faithfully to believe, and to live well, and put them in Mind of the Penance which they had deſerved; which Admonition he expounded to them in *Spaniſh*. After this, as they were on their Knees, this Penance was injoined them; that they ſhould

walk two and two to the Church of St. *Peter*, and there pray, in that Habit which ſhould be injoined them for this Purpoſe; and in the ſame Order ſhould alſo go to the Church of the Convent of St. *Mary ſupra Minervam*, where they ſhould put off their Habit, and every one freely return to his own Place. When they had received this Habit and Penance, the aforeſaid Maſters *Paul* and *John* abſolved them all, who, after Abſolution, went to the two Churches aforeſaid, the Pope ſeeing the whole Ceremony in the new Rooms, and granting them his Bleſſing. The Habit which theſe *Moors* were injoined to wear, was of this Form. Upon their ordinary Garments there was a red or purple Cloath, hanging over their Shoulders upon their Breaſts and Backs, quite down to their Hips, having on it a yellow Croſs four Fingers wide, and of the ſame Length with the Cloath it ſelf. Every one of them went to the Altar of the aforeſaid Church of St. *Mary ad Minervam*, and there laid down the aforeſaid Cloath, which the Friars received, and hung up on high in the Church, to preſerve the Memory of that Affair.

Bzovius, *A.* 1498. §. 32. *fin.*

*Peter* of *Aranda*, Biſhop of *Calaborra*, Maſter of the Houſe of his Holineſs our Lord the Pope, was kept in Jayl, being defamed for *Mahometaniſm* and Hereſy. *Alexander* the Pope committed the Hearing and legal Determination of his Cauſe, to *Peter*, Arch-Biſhop of *Regio*, Governor of the City, *Peter* of *Venance*, Biſhop of *Ceſena*, Auditor General of the Court of the Cauſes of the Apoſtolick Chamber, and *Egardus Durca*, Biſhop of *Sleſwick*, one of the ſaid Auditors of the Cauſes of the ſacred Apoſtolick Chamber. When they had examined ſeveral Witneſſes on Behalf of the Fiſcal, and 101 on the Behalf of *Aranda*, who all of them depoſed either in part or in whole, againſt the ſaid *Aranda*, after the Proceſs was duly carried on againſt him, at length the ſaid Lords Commiſſaries did, on *Wedneſday*, *Sept.* 14. report the Proceſs and Depoſitions of the Witneſſes to our holy Lord the Pope, in a private Conſiſtory. *Alexander*, when he underſtood the Affair, by the Advice of the moſt Reverend Lords the Cardinals, deprived *Aranda* of the Epiſcopal Dignity, and of all his Benefices and Offices, and depoſed and degraded him from all his Orders; and being thus deprived, depoſed, and degraded, he was at laſt thrown into Jayl in the Caſtle of St. *Angelo*. *Brucardus in diariis hujus anni.*

How the Solemnity of a general Sermon or Act of Faith was formerly obſerved, plainly appears from the Book of the Sentences of the *Tholouſe* Inquiſition. The People being called together into the Church, and after the preaching the Sermon concerning the Faith, the Act commenced by an Oath, which the Inquiſitors gave to the Civil Magiſtrates, by which they promiſed their Aſſiſtance to diſcover and apprehend Hereticks, and to accuſe and denounce them to the Inquiſitors; and finally conclude, *And in theſe and all other Things which belong to the Office of the Inquiſition, we will be obedient to God, and the Church of* Rome, *and the Inquiſitors.* This Oath, as appears by comparing the ſeveral Sermons together, was afterwards ſomewhat enlarged, that the Magiſtrates might not have the leaſt Pretence for conniving at Hereſy.



The Celebration of an Act of Faith &c.

After this Oath the Sentence of Excommunication was pronounced againſt ſuch as ſhould hinder the Office of the Inquiſition, by which all were put under Excommunication, *Who have knowingly hindered the Office of the Inquiſition, or for the future ſhall hinder it by any Means, directly or indirectly, openly or ſecretly, either by concealing the Truth themſelves, or revoking what they have legally confeſſed, or by unlawfully perſuading others to conceal or revoke it; and alſo whoſoever ſhall directly or indirectly, openly or privately, knowingly grant Counſel, Aſſiſtance or Favour hereto.* Thus runs the firſt Form of Excommunication in the ſecond Sermon in the Book of Sentences, which was in others differently enlarged, that no Perſon, ever ſo ſlightly ſuſpected, might eſcape the Hands of the Inquiſitors, and that the Magiſtrate might have no poſſible way of throwing any Hindrance to the Inquiſitors in their holy Office.

After this follows the Act of the Inquiſition, and that the Tribunal may appear ſomewhat merciful and kind, they uſually began the Act with pardoning or mitigating the Puniſhment to ſome few Perſons, condemning at the ſame time a great many to the ſame or heavier Puniſhments. From ſome they took their Croſſes, and injoined them ſome arbitrary Penance. Others were brought out of Jayl, and had Croſſes put on them, which was a leſſer Puniſhment. When theſe Favours were beſtowed, the Sentences were read over, by which Penances were injoined the Criminals.

The firſt Sentences were thoſe of the Croſs-Bearers, who were injoined to wear Croſſes on their Breaſt and Back, and if their Crimes were very heinous, they were condemned to wear two. If it happened that their Faults were ſlight, they were injoined arbitrary Penance without Croſſes. An Inſtance of which we have, *fol.* 81. Then follow the Sentences of thoſe who were to be immured, who were condemned to perpetual Impriſonment, there to do wholeſome Penance with the Bread of Grief, and Water of Affliction. If the Offences of any ſuch were very grievous, they were more cloſely and ſtraitly confined, and put in Irons.

Then follow the Sentences of the Impenitent and Relapſed, who are delivered over to the ſecular Court; then the Sentences againſt the Dead, and againſt the Houſes in which any Perſons have committed Hereſy, and finally againſt the Fugitives. When the Sentence is pronounced, the Goſpels are placed before the Inquiſitors, as tho' nothing was decided without taking Counſel from God. This their uſual Form, which generally occurs in the Sentences, plainly ſhews. *Having God before our Eyes, and the Purity of the orthodox Faith, and having theſe holy Goſpels placed before us, that our Sentence may come from the Face of God, and our Eyes may behold Equity.*

The whole Act being finiſhed, the Inquiſitor performed three Things. *Firſt*, He granted forty Days Indulgencies to all who were preſent at Church at the aforeſaid Acts of Faith. *Secondly*, He proclaimed publickly, that all who had given Counſel, Aſſiſtance or Favour, towards any one's abjuring Hereſy, and returning to the Unity of the Church, *viz.* all ſuch as inform, bear Witneſs, adviſe, read the Crimes, Abjuration and Sentence, and the Officers who keep them in Cuſtody, ſhall obtain three Years Indulgencies from the Pope. *Thirdly*, He notifies to all, that whoſoever knows any He- Eymer. *p.* 3. *n.* 195.

retick, or Perſon defamed or ſuſpected of Hereſy, and ſhall denounce him to the Inquiſitors, ſhall alſo obtain from the Pope three Years Indulgencies. And this concludes the whole Act, and was formerly the Manner of holding a Sermon of the Faith.

Now let us ſee how all Things are put in Execution at this time in *Spain* and *Portugal*, after the Act of Faith.

*Direct.* *p.* 3. *n.* 164. *com.* 40. Criminals penitent and reconciled, and brought out in publick Proceſſion, are carried back to their former Jayls in the holy Office, the ſame Day in which the Sentences are pronounced againſt them, and the Day following are brought to an Audience of the Inquiſitors, and are admoniſhed of thoſe Things which are injoined them by their Sentences, and how grievouſly they will be puniſhed, unleſs they humbly do the Penances aſſign'd them. After this, they ſend every one to the Place to which his Sentence ordered him. Thoſe who are condemned to the Gallies, are ſent to the Jayls of the ſecular Judges. Some are whipped thro' the principal Streets of the City, and ſometimes receive two hundred Laſhes. Others wear the infamous *Sambenito*, ſome every Day, others muſt appear in them only *Sundays* and Holydays. But in theſe Things every one obſerves the Cuſtom of his own Inquiſition. In the Inquiſition at *Goa* this is the Method. Before the Priſoners are diſmiſſed, they are carried from Jayl to ſome other Houſe, where they are every Day inſtructed in the Doctrines and Rites of the Church of *Rome*; and when they are diſmiſſed, every one hath a Writing given him, containing the Penances injoined them; to which is added a Command, that every one ſhall exactly keep ſecret every Thing he hath ſeen, ſaid or heard, and all the Tranſactions relating to him, whether at the Table, or in other Places of the holy Office. And to this Secreſy every Priſoner binds himſelf by a ſolemn Oath.

The Day after this Solemnity alſo, the Effigies of thoſe condemned to Death, painted to the Life, are carried to the *Dominicans* Church, and there hung up to be viewed by all. The Cuſtom in this Matter is deſcribed by *Ludovicus a Paramo*. *l.* 1. *t.* 2. *c.* 3. *n.* 9, 10, 11. "There is another Monument of Infamy, which, tho' vulgarly called by the *Spaniards*, *Sambenito*, yet is not a Garment, but a Cloath affixed to the Walls of the Churches for perpetual Infamy in the Pariſhes where they lived. On this Cloath is written the Name and Surname of the Criminal, and the Buſineſs he carried on is alſo expreſſed. If he diſcovers any farther, they add another little Piece to the Cloath to prevent Doubt, deſcribing his Country, and oftentimes alſo the Parents and Grandfathers of the condemned Perſon.

"In ſome of theſe Cloaths may be read, who were the Parents of the Criminals, of what Race they were, whether they were married, or if married Women, whoſe Wives they were, whether lately recovered to the Chriſtian Religion from the *Jewiſh* Law and *Mahometan* Sect. Finally, the Cauſe of their Penance is declared according to the Nature of their Crime, *viz.* that he was an Arch-Heretick, a Dogmatiſt, a declared Heretick, an heretical Apoſtate, a feigned Penitent, negative and obſtinate, an impenitent and relapſed Heretick, a *Lutheran*, Anabaptiſt, *Calviniſt*, *Martianiſt* Heretick, even tho' they died before Condemnation. Beſides this

"In-

" Inſcription, there is alſo painted the Mark which is uſually put on living " Penitents, as is above explained. In the antient Cloaths, which have not " yet been repaired, one may ſee an upright Croſs. Beſides theſe already " mentioned, other Things may be ſeen in them; for in ſome the Perſon and " Crime is omitted, and this one Word only written without the Picture, " *Combuſtus*, *Burnt*. On the Cloaths of ſuch as are reconciled, this Word on- " ly without any Croſs or Mark, *Reconciliatus*, *Reconciled*. Sometimes the " Date of the Year is wanting. Sometimes the Flames are painted without " any Inſcription, ſo that the Criminal can't poſſibly be known. Some " Cloaths are to be ſeen, from the Ends of which the Threads hang out, in " which probably there is nothing remarkable, and which ſeem to be made " of the very End of the Piece. The Cauſe of ſo great a Variety in theſe " Cloaths ſeems to be this, that formerly the Fathers of the holy Inquiſition " did not publiſh Conſtitutions concerning all theſe Matters, as they have " now done. For after that the Inſtructions of the Inquiſitors were printed " at *Madrid*, there is extant a peculiar Conſtitution, in which the Manner of " fixing up, and keeping in Repair theſe Cloaths of Infamy is preſcribed. " 'Tis decreed in this manner, *Cap.* 81. *'Tis known, that the Monuments of* " *Infamy of condemned Perſons, both living, whether preſent or abſent, or* " *dead, muſt be hung up on the Walls of the Churches of the Pariſhes where* " *they lived; and that whether they are impriſoned, or deceaſed, or fled.* " *'Tis the ſame as to reconciled Perſons, after having performed the Penan-* " *ces injoined them, and the taking off their Habits, even altho' they were* " *cloathed in them only for the Proceſſion at the Act of Faith, and whilſt* " *their Sentences were read over.* This is inviolably obſerved, and no one " hath Power to make any Alteration herein; but 'tis always recommended " to the Inquiſitors, that they ſhould take diligent Care to repair theſe Effi- " gies, eſpecially in the Provinces which they viſit, that the Infamy of He- " reticks and their Poſterity may never be forgotten. The Time alſo of " Condemnation muſt be written on theſe Cloaths, and it muſt be particularly " ſpecified, whether they offended as *Jews*, *Saracens*, *Lutherans*, and embra- " ced the Hereſies of their Followers and other impious Perſons. However, " theſe Monuments of Infamy and Diſgrace are not to be fixed up to render " thoſe infamous, who are reconciled during the Time of Indulgence and " Grace. For as it was agreed with them, that they ſhould not wear ſuch in- " famous Habits, nor be cloathed with them during the Time of their Re- " conciliation, it would be contrary to Reaſon and Juſtice to hang them up; " becauſe it would be wholly to deſtroy the Favour granted them. This " Conſtitution is obſerved in all the Kingdoms and Dominions of the King of " *Spain*, except in *Sicily*; where, in the Year 1543. when the Licentiate *Cer-* " *vera* was Inquiſitor there, there was a very great Commotion at *Palermo*, " when the People roſe againſt the holy Inquiſition, and tore off the infa- " mous Cloaths from the Walls of the Church dedicated to St. *Dominick*, with " ſo great a Fury and Rage, that they could never, to this Day, fix them up " again upon the Walls either of that, or any other Church.

CHAP.

## CHAP. XLII.

### *An Enumeration of the ſeveral Inſtances of Injuſtice and Cruelty practiſed in the Tribunal of the* INQUISITION.

THUS far we have deſcribed the Method of Proceeding obſerved in the Inquiſition, as far as we could learn it from the Writings of the Papiſts, and even the Inquiſitors themſelves; and if we attentively conſider it, and compare it with the uſual Method of Proceeding in all other Courts, we ſhall find it to be a Series and Connection of Injuſtice and Cruelties, and ſubverſive of all Laws both divine and humane.

The Papiſts uſually recommend to their own People this Tribunal as an holy one, and call the Inquiſition the holy Office. But if we conſider it throughly, we ſhall find 'tis all Diſguiſe, by which they endeavour to palliate and cover over the Villany and Injuſtice of this Court. I will not now undertake to ſhew that the Cauſes which are managed before this Tribunal, are not ſubject to humane Judgment, but belong to the Tribunal of God and his Son Chriſt. For God only, the ſupream Lord of all, who can ſave, and can deſtroy, can preſcribe the Laws of Salvation and Damnation. He only, as Omniſcient and Searcher of Hearts, can pronounce an infallible Judgment of every one's Faith, which lies concealed in his Mind, and which he may diſſemble by Words or Actions, and hath admitted no Man as Partner with himſelf in this Power. From hence it evidently follows, that 'tis a ſacrilegious Violation of the divine Majeſty and Laws, in that the Pope of *Rome* arrogates to himſelf the Judgment of the Faith, preſcribes Laws of Believing to the Faithful, erects the Tribunal of an Inquiſition, ſends every where Inquiſitors as Judges delegated by him, who, in his Name, and by a Power granted by him, are to inquire into the Faith of all, and puniſh thoſe who are not in all Things obedient to the Pope. Nor will I here examine that villanous Doctrine by which they teach, that Hereticks are to be deprived of all Power, ſo that Faith is not to be kept with them, Subjects are not bound by their Oath of Allegiance and Fidelity, that the Husband or Wife, for the Hereſy of either, is freed from the Laws of Matrimony, and even Children from Obedience to their Parents. For 'tis fully evident that this Doctrine ſubverts all Laws divine and humane.

I will only in a few Words repreſent the principal Iniquities and Inſtances of Injuſtice of this Tribunal, in which, as to the Reaſon and Method of Proceeding in Favour of the Faith, it differs from the Laws and Cuſtoms of all other Courts; whereby Things evidently unjuſt in other Tribunals, are in this accounted juſt. I ſhall not indeed mention all, but the Chief only, and moſt remarkable Inſtances, as Specimens of the reſt.

I. The

I. The firſt is, that the Inquiſitors by publiſhing an Edict of the Faith, oblige all under the Penalty of Excommunication, to inform before them of every one, whom they ſuſpect of Hereſy for the ſlighteſt Cauſe; ſo that not only a Relation is bound to accuſe his Relation, a Brother his Brother, and by his Information to bring him into Danger of being burnt, the moſt horrible of all Puniſhments; but even a Wife her Husband, yea, what deſtroys all the Laws of Nature, a Son, according to the Opinion of many Doctors, is bound to inform againſt his Father, if a ſecret Heretick. And tho' ſome think the Son exempted from this Obligation, yet they ſay he is to be commended when he accuſes his Father, becauſe he prefers the Cauſe of the Faith and Church to any carnal Relation. Yea, he is ſometimes tempted by Rewards to give ſuch an Information. For when the Effects of Hereticks are confiſcated, ſo that the Son can't be his Father's Heir, yet he recovers his Father's Effects as the Reward of informing againſt him. What is this better than to ſolicite by Rewards wicked, ſtubborn and rebellious Children, whom their Parents may have corrected for their diſſolute Manners, to accuſe their Parents of feigned Crimes, or at leaſt to become Betrayers of them.

II. A ſecond Inſtance of Injuſtice is, their condemning a Perſon, defamed only for Hereſy, to make canonical Purgation, *i. e.* to purge himſelf with ſeven, more or leſs, Compurgators; ſo that if he fails in one, two or three, he is accounted guilty. For thus the Life and Torture of any one depends on the Will and Pleaſure of another, and 'tis enough to declare him to be an Heretick, if one of the Compurgators dares not ſwear, that he believes to be true, what the defamed Perſon aſſerts upon his Oath. And altho' they confeſs that canonical Purgation is a very deceitful Method, their Injuſtice can't be excuſed, becauſe notwithſtanding this, they uſe it in their Court.

III. A third is, that in this Office, every one, tho' excluded by other Courts, is admitted for a Witneſs, a mortal Enemy only excepted.

IV. To this may be added a fourth, that the Names of the Witneſſes are not ſhewn to the Priſoner, nor is any Circumſtance diſcovered to him by which he can come to the Knowledge of the Witneſſes. Who doth not ſee, that the Defence of the Priſoners is maimed and imperfect, who, tho' accuſed, as they think, of the moſt heinous Crime, hath no Adverſary againſt whom he can defend himſelf, but like blind and groping Perſons, muſt endeavour to find him out, whilſt, in the mean while, they are ordinarily accuſed by, and make their Defence againſt a different Perſon? 'Tis well known, that ſuch is the Wickedneſs of Mankind, that ſome will readily endeavour the Deſtruction of others by falſe Information and Witneſs, if they can conceal themſelves, eſpecially if infamous and perjured Perſons, guilty of almoſt

every

every Crime, be admitted as Witneſſes, and ſolicited with Promiſes and Rewards. Beſides, who can pretend to form a certain Judgment of mortal Enmity, which lies concealed in the Mind, and of which no Man can therefore be a certain Judge? The Cauſes of ſuch Enmity are no abſolute Diſcovery of it. One may ſee ſome Perſons ſo meek, and ſo fully poſſeſſed with the Fear of God, as that tho' they are injured in the moſt grievous Manner, they will not harbour Enmity in their Breaſt; whilſt others, tho' injured in a very trifling Manner, yea, giving a wrong Turn to an indifferent Action, ſhall conceive an irreconcilable Hatred, and cheriſh a mortal Enmity. Who can here judge of the Mind of either? When the Judge hath conſidered the Cauſe of the Enmity, if it doth not appear to him to be ſufficient, he will pronounce the Man not to be at mortal Enmity, tho' at the ſame time his Mind may burn with Anger and Revenge. And thus he becomes a proper Witneſs, becauſe he is of a worſe Diſpoſition than the Judge dares preſume him to be; whereby the miſerable Wretch, who happens to have ſuch an Enemy, periſhes by ſuch an Evidence.

V. A fifth Inſtance of Injuſtice is, that if two unexceptionable Witneſſes, who yet muſt ever be liable to Exception, becauſe unknown to the Criminal, teſtify of different Facts, yea, ſometimes if there be one only, yea, if but a mere Report, they think it enough to order to the Torture. Hereby there is an End at once of the moſt innocent Perſon in the World, and the Inquiſitor hath it in his Power by this Means to make any one guilty by his own proper Confeſſion. For how eaſily doth it happen, and there are Inſtances enough of this in the Court of the Inquiſition, for a wicked Wretch, or an Enemy to charge an innocent Perſon with the Crime of Hereſy, when he is certain that he is not obliged to prove his Information, and that his Name ſhall not be diſcovered. In the mean while the Perſon informed againſt is condemned to the Torture, and without End and Meaſure tormented with the moſt cruel Torments, till he makes a Confeſſion of a Crime that he hath never committed; which is ſo evident, that Friar *Bernard Delicioſi* formerly ſaid, as appears in his Sentence, *That even St.* Peter *and St.* Paul *could not defend themſelves from Hereſy, if they were now alive, if Inquiſition was made againſt them according to the Manner uſed by the Inquiſitors.*

VI. The ſixth is, that two unexceptionable Witneſſes who agree, are ſufficient for the Conviction and Condemnation of any Perſon. 'Tis well known that many Things might be objected againſt the Credit of the Witneſſes, if they were known, by which the Weight of their Evidence might be leſſened; and that they might be oftentimes convicted of Falſhood by ſeveral Circumſtances, by the Teſtimony of others preſent, and by other Means. But who can defend himſelf againſt Perſons he doth not know? All that he can do is to gueſs and conjecture who the Accuſers and Witneſſes are. If he miſtakes in this, all his Defence is in vain. If the Priſoner ſhould happen to gueſs right, yet the Witneſſes are never diſcovered to him, and he muſt make his Defence

Defence againſt them upon a bare Suſpicion. In the mean while the Inquiſitor is to judge, whether the Priſoner weakens or deſtroys the Credit of the Witneſs. If he cannot deſtroy the Evidence, altho' he be the moſt innocent Perſon, altho' he proteſts that he is a Catholick, and will die in the Faith of the Church of *Rome*, yet he can't eſcape being condemned as a convicted Heretick, and being delivered over to the ſecular Power to be burnt for Contumacy and Impenitency. Nor muſt he, unleſs he will commit a mortal Sin, redeem his Life by a falſe Confeſſion of a Crime he hath not committed. So that in this Caſe the miſerable Wretch, falſly accuſed, which they themſelves allow doth ſometimes happen, is condemned as an Heretick by the Laws of the Inquiſition, delivered over to the ſecular Court to be burnt, and yet is at the ſame time a true Catholick, and, as they themſelves ſay, ſhall obtain for this Wrong the Crown of Martyrdom. So that an innocent and juſt Perſon is condemned by the Laws of the Inquiſition, and he whom the Inquiſitors ſentence to Death, is a Perſon acceptable to God, and to be honoured with a Crown of Martyrdom. 'Tis a Scandal that any Tribunal ſhould be erected, againſt which ſo foul an Objection lies; or that the Church, after Satisfaction is made to God, and the internal Court of the Church by Repentance, ſhould erect another external Court, where Satisfaction muſt be made by the Puniſhment of the Penitent.

VII. A ſeventh Inſtance is, that they would have Perſons informed againſt become their own Accuſers. For as ſoon as ever any one is thrown into Jayl, he is bound by an Oath to declare the Truth. Then he is asked the Reaſon of his Impriſonment, that he may accuſe himſelf, if he hath happened to do any thing that will render him guilty in the Court of the Inquiſition. Whereas the Method of all Courts requires that the Accuſation be ſhewn to the Criminal, and he himſelf be examined concerning the Fact he is accuſed of. But in the Inquiſition every Priſoner is left to gueſs at the Crime he is accuſed of. There are oftentimes Things ſpoken innocently and inadvertently, ſometimes Words are turned into a quite different Senſe, ſometimes the Crime it ſelf is evidently forged; and, in the mean while, if he can't accuſe himſelf, he miſerably pines away ſometimes for Years together in an execrable Jayl, that his Conſtancy may be broken by the Tedioufneſs of his Impriſonment. If he can't gueſs at the Crime, and waits till 'tis objected againſt him by the Promotor Fiſcal, he is looked on as guilty of Contumacy, ſtubborn, and perjured, and if then by Chance he remembers the Crime, and owns it, he is more grievouſly puniſhed, becauſe he would not voluntarily confeſs it. But if he doth not acknowledge it, he is tortured, tho' it be not fully proved; but if it be fully proved, he is condemned, according to the Laws of the Inquiſition, as a negative Convict. So that however he behave, he can't poſſibly eſcape the cruel Hands of the Inquiſitors.

VIII. An eighth Inſtance is, that the Inquiſitors uſe various Arts to draw out a Confeſſion from the Priſoners, by making them deceitful Promiſes,

which, when they have got the Confeſſion, they don't believe themſelves obliged to fulfil; and to get them by artful and evaſive Interrogatories to declare, that the Informers and Witneſſes are not their mortal Enemies; that ſo the Priſoner being deſtitute of all human Aſſiſtance and Comfort, and ſeeing no End to his Miſeries, may, thro' the Art and Fraud of the Inquiſitor, have no poſſible way left to defend himſelf. And yet in the mean while theſe Wretches affect the Appearance of Juſtice, and grant the Criminals an Advocate and Procurator to manage their Cauſe. But in this the Priſoner is miſerably deceived.

IX. And this is a ninth Specimen of their Injuſtice, becauſe the Advocate granted to him is given him only to betray him. For he may not chooſe ſuch an Advocate as he himſelf approves of, nor is it lawful for the Advocate to defend the Priſoner, unleſs he would be accounted as a Favourer of Hereſy; but the Inquiſition it ſelf aſſigns him his Advocate, bound to them by an Oath, whoſe principal Buſineſs is to perſuade the Criminal to confeſs the Crime he is accuſed of, not to uſe any Methods of Defence not practiſed in the Court of the Inquiſition, and immediately to quit his Defence, if he can't defend him according to the Laws of the Inquiſition. Beſides, the Defences they uſe are mere Trifles and Impoſtures, by which they miſerably deceive the Priſoners, ſo that tho' they ſeem to be endeavouring to do a great deal, they in Reality do nothing at all; but only obſerve a few Forms, that the Proceſs in the mean while may be prepared and finiſhed, according to the Cuſtom obſerved in the Inquiſition.

X. A tenth is, that when the Crimes cannot be proved againſt the Priſoner, he is not abſolved from the Crime of which he is accuſed, but only from Proſecution; and all the Declaration that is made is, that the Crime againſt him is not proved by proper Witneſſes; and this Sentence is never taken for an adjudged Caſe. So that he who is once informed againſt to the Inquiſition, altho' he be innocent, and his Crime can't be proved according to the received Manner of the Inquiſition, tho' indeed, according to that Manner, all Crimes, of which there is but the leaſt Suſpicion, may be eaſily proved; yet he is never blotted out of the Inquiſitors Book or Index, but his Name is there preſerved in perpetual Remembrance of his being a ſuſpected Perſon, that if he ſhould happen to be informed againſt for Hereſy at any other time, theſe latter Informations added to the former may amount to a real Proof, and that altho' he is diſmiſſed from Jayl by the Sentence of the Judge, he may never be able to live in Safety, but that being always ſuſpected by the Inquiſitor, he may be arreſted for the ſame Crime which ought to have been forgotten, upon the freſh Information of ſome vile and wicked Fellow.

XI. An eleventh, and that not the leaſt Inſtance of Injuſtice, is, their Readineſs to put Perſons to the Torture, and that to diſcover a ſecret Crime, lying concealed in the Mind; yea, that they will uſe the Torture ſo much the ſooner, becauſe the Crime is more concealed than other Crimes. 'Tis

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well known to all, that Torture is a very deceitful Method of discovering the Truth, because those who confess the Truth, and who declare Falshoods, have the very same End to their Pain. And therefore Lawyers will never have the Torture made use of, unless when the Crime is sufficiently proved, and there wants nothing but the Criminal's own Confession. But as to secret Crimes, to be ready to inflict the Torture is the highest Injustice, and necessarily subjects many innocent Persons to the most grievous Punishment; whilst being unable to resist the Cruelty of their Torments, they had rather make themselves guilty, by a false Confession of a Crime they never so much as thought of, to put an immediate End to their most cruel Punishment, than to endure any longer those most dreadful Torments, of which they can see no manner of End.

XII. The twelfth is, their putting Persons to the Torture upon half full Proof of the Crime. This half full Proof is Faultering, Defamation, and one Witness of his own Knowledge, or when the Tokens are vehement and violent. All these Things are subject to the Pleasure of the Judge. So that if any one falls into the Hands of a cruel Inquisitor, and faulters in his Answer, or is informed against by one Witness, who declares he was present at the Action or Words he gives Information of, he can't possibly escape the Torture, nor consequently the Punishment of the Crime he is accused of, considering the Violence of the Torments. Nor is this all, but as there may be some Facts occasioned not so much by Heresy concealed in the Mind, as by carnal Concupiscence or Rashness, they will have such to be tortured for their Intention, and force them by Torments to confess they had an heretical Intention in their Mind.

XIII. A thirteenth is, that when they prepare themselves for the Torture, they gravely and seriously admonish the Criminal, to speak nothing but the Truth, and to confess nothing that is not agreeable to Truth to avoid the Tortures. By this Means they put on the Appearance of Sincerity, as tho' they sought nothing but the naked Truth, that when the Torture is finished they may be very secure that the tortured Person hath confessed a real Crime; because they have seriously and gravely admonished him to say nothing contrary to Truth. In the mean while they suppose, that the Crime objected against him is real, and endeavour to force from him a Confession by Torture, and threaten to double his Torments unless he confesses; so that if he denies the Crime, his Torments are aggravated; if he confesses it his Torments are soon ended. Hence it appears, that their Design is not honestly to find out the Truth by Torture, but that they suppose the Crime is real, altho' according to the Laws of the Inquisition it be only half proved, and then extort a Confession of it.

XIV. A fourteenth is, that whereas in other Courts the Number is certainly fixed how often the Torture may be repeated, they have invented a Method

of torturing Perſons very often, without offending againſt the Law, which provides that the Tortures ſhall not be repeated above twice or thrice. If, for Inſtance, they make uſe of the leſſer Tortures, and the Priſoner confeſſes nothing, they afterwards make uſe of more grievous ones, then proceed to ſuch as are more cruel, till at different Intervals of Time they have gone thro' all the ſeveral Kinds of Tortures. And this they don't call a Repetition, but only a Continuation of the Torture; ſo that if any one hath been ſeveral times tortured, but with a different kind of Torture each time, and hath thus at certain Diſtances gone thro' all the Kinds of Torture, according to the Opinion of theſe merciful Caſuiſts, he ought to be accounted as tortured only once.

XV. A fifteenth is, that when they deliver condemned Perſons to the ſecular Arm, they intercede for them, that their Puniſhment may be ſo moderated, as to prevent ſhedding of Blood, or Danger of Death. And in the mean while, if the Magiſtrate is not ready to burn the Hereticks, or delays the Puniſhment, they oblige him, under Penalty of Excommunication, to execute the Sentence. The ſuperſtitious Wretches are afraid they ſhould become irregular, by delivering a Criminal to the ſecular Magiſtrate without Interceſſion, and yet are not afraid of becoming irregular, by compelling the Magiſtrate under Penalty of Excommunication, to murther thoſe whom they have condemned. Can any thing be more evident, than that this is nothing more than acting a Part, and an Affectation to be thought by the People to have no Hand in the Murther of which they are really the Authors?

XVI. The laſt Inſtance I ſhall mention appears in their ridiculous Proceſs againſt the Dead, whoſe Relations and Heirs they cite, to appear on ſuch a Day to defend, if they can and will, the Memory of the Dead. Whereas they themſelves have made it a Law, that if any one appears in Defence of an Heretick, he ſhall be accounted as a Favourer of Hereticks himſelf, and condemned as ſuch, and have no Advocate or Procurator to defend himſelf. So that they cite all Perſons to defend the Memory of the Dead, and yet deter all Perſons from ſuch Defence by a moſt grievous Puniſhment, appointed againſt the Favourers of Hereticks. So that all this is, like their Interceſſion for Criminals, mere Impoſture and Sham. Then they provide an Advocate to manage the Cauſe, bound to them under an Oath, and he publickly declares he can't defend the Memory of the Deceaſed. So that as no one undertakes his Defence, the Accuſations againſt him are reckoned juſt, the Proofs legal, and the Deceaſed is condemned for Hereſy. But what greater Inſtance of Injuſtice can there be, than to condemn a Perſon as convicted, whoſe Defence no one dares undertake, without running the Hazard of his Fortune and Life.

If any one conſiders theſe Things, which I have mentioned as Specimens only, he will find no Sanctity in the Court of the Inquiſition; but muſt acknowledge, that in the whole Method of Proceeding there is nothing but Injuſtice, Fraud,

Fraud, Impoſtures, and the moſt accurſed Hypocriſy, by which the Inquiſitors, under the feigned Pretence of Sanctity, endeavour to diſguiſe the Villany of their Proceedings, that ſo they may maintain their Dominion over the miſerable common People, and keep them all in Subjection to themſelves. And tho' they do every Thing that is wicked and vile, yet they would have all adore them for the venerable Character of Sanctity.

'Tis needleſs to mention here more Inſtances of their Cruelty. I ſhall ſay all in a few Words. The Miſeries of the Jayl, in which the Priſoners are generally confined by themſelves for ſeveral Years, ſhut up in Darkneſs, without being allowed any human Converſe, are ſo great; the Cruelty of their Torments ſo ſevere, and their Puniſhments ſo exquiſite, that they greatly exceed the Cruelty of all other Courts. For Perſons are not only burnt alive, but their Mouths gagged, ſo that they have not the Liberty to groan or cry out in thoſe moſt horrible Tortures; and by thus ſtopping up their Mouths, they are in ſuch an Agony as that they are almoſt ſtrangled. But their Cruelty towards the Penitent and converted is moſt deteſtable. For whereas the Church ought, with open Arms, to embrace Penitents, in Imitation of the Shepherd who carried the loſt Sheep on his Shoulders, and brought it home to the Sheepfold, theſe Wretches injoin the moſt grievous Puniſhments on thoſe whoſe Lives they ſpare, which with them are only wholeſome Penances. For they condemn them either to wear the infamous *Sambenito*, or to Impriſonment, or the Gallies, whereby their very Life is oftentimes a Puniſhment to them; whilſt others are denied the very Hopes of Life, eſpecially the Relapſed, tho' they convert themſelves, who are condemned to Death without Mercy. And yet the Sacraments are given to thoſe who are reconciled to the Church when they deſire it, and thus before they are put to Death they become Members of the Church, put in a State of Salvation, and by the Prieſts themſelves moſt certainly aſſured of an heavenly Crown. Can there be any greater Cruelty, and more abhorrent from the Spirit of Chriſtianity, than to puniſh with Death an erroneous Perſon who repents, deteſts his Error, and is now reconciled to the Church? But the Eccleſiaſtical Sanctions muſt be ſatisfied, and the Authority of the Church preſerved intire, tho' the Laws of Jeſus Chriſt and the Commands of the Goſpel are trampled under Foot.

All theſe Iniquities are committed according to the very Laws of the Inquiſition. Many Things are indeed in the Execution of this Office, left to the Pleaſure of the Inquiſitors, which Power they often villanouſly abuſe, as appears from their daily Practice, and innumerable Inſtances; for it was the common Complaint of all Nations againſt the Inquiſition, what *Thuanus* tells us was the Complaint of the *Neapolitans*. *That the perverſe and prepoſterous Form of Trials increaſed the Horror, becauſe it was contrary to natural Equity, and to every legal Method in carrying on that Juriſdiction. Add to this the Inhumanity of their Tortures, by which they violently extorted from the miſerable and innocent Criminals, that they might deliver themſelves from their Torments, whatſoever the delegated Judges would have them confeſs, tho' generally contrary to Truth. And for this Reaſon 'twas juſtly ſaid, that it was invented not for the ſake of defending Religion,* Hiſt. Lib. 3.

*ligion, which the primitive Church had provided for by a quite different Method, but that by this Means they might ſtrip all Men of their Fortunes, and bring innocent Perſons into Danger of being deſtroyed.* And that this was not ſaid without Cauſe, the *Netherlands* alone, not to ſeek for Inſtances elſewhere, are the moſt evident Demonſtration.

*Tom. 9. p 860, 861. Adverſ Monach. Hiſp.*

*Eraſmus* gives us this Account of the Inquiſition in his Time. *The Affair is carried on by Informers, deputed Perſons, and Monks for Judges, without Honeſty or legal Form of Law. The three former paſs Sentence in Jayl, two Monks are Witneſſes, and then the Stake is prepared.* And afterwards: *But now ſometimes the Monks ſpread a falſe Report, then they carry the poor Wretch, as a ſuſpected Perſon, to Jayl, there they diſpute after their Manner, the Articles are taken down, and the Fagots immediately got ready.* The ſame Writer intimates, p. 858. *There is a great deal of Difference between an holy, and a falſe enſnaring Inquiſition. A Father inquires into the Life of his Son, that he may take Care of it. A Phyſician inquires into the Diſtemper of his Friend to cure him. So he who loves the Houſe of God inquires into the evil Errors that are in it, to heal them if he can; or if he cannot, to cut off the incurable Member when all Methods have been tried in vain, to prevent the Evil from ſpreading wider. Again, another inquires in a very different Manner only that he may betray. A Robber inquires that he may ſeize his Prey. A ſcurrilous Perſon inquires that he may have an Opportunity of throwing Scandal. An Enemy inquires, in order to deſtroy. A Tyrant inquires, that he may overthrow the publick Liberty. The Devil alſo inquires, going about as a roaring Lion, ſeeking whom he may devour. Such a kind of Inquiſition every Chriſtian Inquiſitor ought to deteſt.* All who underſtand *Eraſmus*'s Stile and Method of Writing, know, that 'tis his Deſign to inſinuate by this Caution, that the Inquiſition is truly ſuch as he hath deſcribed it, and which therefore ought to be abhorred by every Chriſtian Inquiſitor.

*l. 2. t. 3. c. 4, 5.*

The Papiſts indeed glory, that the Inquiſition is the moſt certain Remedy to exſtirpate Hereſies. Eſpecially *Ludovicus a Paramo* takes a great deal of Pains to ſhew, that Hereſies have in ſeveral Places been extinguiſhed by Help of the Inquiſition, and at laſt concludes in theſe Words. *Theſe are ſome of the faireſt Fruits, which the moſt fertile Field of the holy Office hath produced to the Church in all Kingdoms where it hath not been obſtructed. But amongſt all Provinces and Countries the Kingdoms of* Spain *do every Day receive the nobleſt Fruits. For as in theſe Countries the holy Office of the Inquiſition is maintained with greater Severity, and is in greater Honour and Eſteem with the Nobles and Princes, ſo it flouriſhes in greater Authority and Power, whereby the Judges of the Faith carry on more diligent Inquiſition againſt Hereſies, and more effectually pull them up by the very Roots.* And becauſe the Inquiſition is ſo effectual a Method to exſtirpate Hereſies, he gathers from thence that it was ordained for this Purpoſe, by the moſt wiſe Providence of God. But what is really unjuſt in it ſelf, and carried on by unjuſt Methods, cannot have God for its Author, nor is Succeſs any Argument that the Inquiſition is from God. The firſt Inquiry is, whether it be ſuitable to the Nature of the Chriſtian Doctrine. If it be not, 'tis then unjuſt and Anti-chriſtian. Many Things are unrighteouſly undertaken

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by Men, and accompliſhed by Violence and Cruelty, by which Innocence is oppreſſed, which altho' God in his juſt and wiſe Counſel permits, he is far from approving. Even in *Japan*, a cruel Perſecution hath extinguiſhed the Chriſtian Religion, as preached by the *Roman* Prieſts; ſo that the *Roman* Catholick Religion is equally extinguiſhed there by the Violence of Perſecutions, as thoſe Doctrines are in *Spain*, which are contrary to the Church of *Rome*, and which they render odious by the infamous Name of Hereſy. And yet they will not allow that any juſt Argument can be drawn from hence to prove, that that Perſecution was given by divine Providence, as a moſt effectual Remedy for the Exſtirpation of their Religion. If other Parties of Chriſtians would uſe the ſame Diligence and Cruelty of Inquiſition againſt them, I may venture to affirm, that they themſelves could not withſtand it, but that within a few Years the Popiſh Religion would be extinguiſhed in all Proteſtant Countries, and ſcarce a ſingle Perſon left who would dare to profeſs it. But God forbid, that the Chriſtian Religion ſhould ever be propagated this way, which doth not conſiſt in a feigned and hypocritical Profeſſion, but in a ſincere and undiſſembled Faith. And therefore as no one ought to aſſume to himſelf the Power of Judging concerning it, but God the Searcher of Hearts, to him only let us leave it to paſs the true Judgment concerning every Man's Belief. Let us in the mean while deteſt the Tyranny of the Papiſts, and ſtrive to reduce thoſe who, in our Judgment, hold Errors, into the way of Truth, by the good Offices of Charity and Benevolence, without arrogating to our ſelves a Judgment over the Conſciences of others. And out of a ſerious Regard to the laſt great Day of Judgment, let us approve our Conſciences to God, and every one of us expecting from his Mercy an equitable and righteous Judgment, pray without ceaſing, ARISE, O LORD, AND JUDGE THY CAUSE.

*F I N I S.*

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